

1456

4.4.4

XXVIII SUNDAY MORNING, SUNDAY AFTERNOON

1.

It's 10 A.M. Sun Morn. I got up and showered and shaved--well first I did my exercise, 10 minutes running. These fucking guards think I'm nuts when I run up and down the tier. Almost all these guards are fat lazy fuckers.

Hey you're an elf, ain't ya?!

They asked me who I invite to watch me get shot. I said

Number ONE: NICOLE

Two: Vern Damico

Three: Ron Stanger, lawyer

Four: Bob Moody, lawyer

Five: Lawrence Schiller, big Wheeler dealer from Hollywood.

I knew they wouldn't let you come, so I said to just reserve a place in your honor.

The New York Post said I was auctioning off seats--

1457

Lot of people write a lot of shit in the paper.

Baby you said if I am shot Jan 17--18 hrs from now--
what will be in you?

I will.

I will come to and hold you my darling companion.

Do not doubt.

I'll show you.

Baby I've been avoiding something but I'll come to
it right now.

If you choose to join me or if you choose to wait--
it is your choice.

Whenever you come I will be there.

I swear on all that is holy.

I do not want anybody else to ever have you if you
choose to wait.

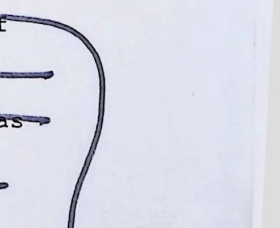
You are mine.

My soul mate.

Indeed, my very soul.

Do not fear nothingness my Angel. You will never
experience it.

Sunday morning, ~~Lucinda was typing the transcript of~~
~~yesterday's interview when all of a sudden, she couldn't~~
~~help it and made a sound Schiller turned around. She was~~
~~crying her head off, right there on Sunday morning.~~



1458

to Schiller.

Then Vern was on the phone. Offers coming in from wax museums to buy Gary's clothes. The sums were up to several thousand dollars. It wasn't a question of selling, but it had obviously become a matter of protecting the last things Gary wore, and, by extension, they had better protect his remains as well. While the prison would guard his body through delivery to the hospital in Salt Lake where Gary's eyes and organs would be removed, Schiller decided it would be a proper caution to post his own guard at the hospital. ~~It would be that he had truly lucked into Jerry Scott. He was just the man to keep watch on the trip from the hospital to the crematorium.~~

stet

GILMORE: Fagan said, "There's still a chance you'll get your phone call." I told him, "You foul, sleezy cocksucker, fuck you in your ass." He said, "Oh, ah ah ah ah." He says, "My hands are tied." I said, "Well, how does it feel to walk around with your hands tied. Have you ever thought about feeling like a man, you piece of shit?" I don't even know if I'll come in to the visiting room tonight. Fagan will say, "Well, we really treated him great on his last night. We gave him unlimited visits. We let him see his uncle and his lawyers." (laugh)

Moody began his last list of questions.

MOODY: If on your passage you meet a new soul coming to take your place, what advice would you have for him?

GILMORE: Nothing. I don't expect someone to take my place. Hi, I'm your replacement. . . where's the key to the locker. . . where do you keep the towels?

MOODY: I don't know, wouldn't you have something to tell him about the life that ah. . . awaits him?

GILMORE: Shit. . . That's a serious question.

MOODY: I think he wants you to be very serious about it.

GILMORE: I've talked to people who know more than I do, and people who know less, and I listen, and I decided the only fucking thing I know about death, the only real feeling I have about it, it'll be familiar; I don't think it'll be a harsh, unkind thing. Things that're harsh and unkind, are here on earth, and they're temporary. They don't last. This all passes. That is my summation of my ideas, and I might be all wet.

MOODY: Do you know what Joe Hill's last message to the Wobblies was?

GILMORE: Joe?

MOODY: Joe Hill. He's a man who was killed in Utah a number of years ago.

GILMORE: His name was Joe Hillstrom. What did he tell the Wobblies.

MOODY: Don't mourn boys, organize.

GILMORE: Don't warn?

MOODY: Don't mourn, boys, organize.

GILMORE: Well, I got somethin' like that I kinda like: "never fear, never breathe." That's a

Muslim saying. I don't know where they got it, but you can apply it to anything, it makes pretty good sense. Don't mourn boys, organize.

MOODY: You know the old line in the war movies, "any man who said he ain't scared is either a liar or a fool"?

GILMORE: What about it?

MOODY: Doesn't that apply at least a little to your situation?

GILMORE: I didn't say I wasn't scared, did I?

MOODY: No. But your message to the world has the connotation of don't fear.

GILMORE: Well, why fear? It's negative. You know you could damn near call it a sin if you let fear run your life.

MOODY: You're certainly determined to defeat fear.

GILMORE: I don't feel any fear right now. I don't think I will tomorrow morning. I haven't felt any yet.

MOODY: How are you able to overcome fear from coming into your soul?

GILMORE: I guess I'm lucky, it hasn't come in. You know a truly brave man is somebody who feels fear and goes out and does what he's supposed to do in spite of it. You couldn't really say I'm that fuckin' brave because I ain't fighting against fear and overcoming it. I don't know about tomorrow morning. . . I don't know if I'll feel any different tomorrow morning than I do right now, or than I felt on the first of November when I waived the fucking appeal.

MOODY: Well, you're remarkably composed.

GILMORE: Thank you, Bob.

MOODY: I don't know what to say, I just really. . .

GILMORE: Look, man, I'm being kind of rude. You guys are a little upset about all of this, aren't ya?

MOODY: It's hard Gary. I'm physically ill.

At this point, Bob Moody began to cry. A little later, when he got control of himself, he and Gilmore and Stanger talked a little more. Then, they said goodbye for the morning. They would return in the late afternoon to visit through the night. As they went out, Gilmore said, "Don't forget that vest." "The what?" asked Bob. "The bullet-proof vest," said Gilmore. "I'll wear it in myself," said Moody, and Gilmore said, "You guys take care."

Sunday morning, Vern went to Maximum Security and talked to Gary on the telephone, looking through the glass. For once they talked about his mother's sisters in Provo. Gary was curious why none of his aunts, except for Ida, had come to see him. "Why do you think?" he asked directly of Vern.

"Oh, Gary," Vern said, "I'm sure they wanted to, but I can't answer for them." In Vern's head, he was still hearing one of Ida's sisters say, "I just can't make myself go up and talk to him."

1462

Gary looked at him then, and said, "Mom is too sick, or she would be here."

3.

The Legal Defense Fund of the NAACP had made available to Gil Athay a lawyer in Washington named John Shattuck. He was going to present a petition for Athay to the United States Supreme Court. After the loss, therefore, in Judge Lewis' court on Saturday afternoon, Athay's office got busy dictating a brief over the telephone. On Sunday it was hand-carried by Shattuck to the Supreme Court, and filed.

At 6:25 in the evening, DC time, which was 4:25 P.M. in Utah, a phone call came in from the Clerk of the Court, Michael Rodak. Athay was told that Justice White had endorsed the following quotation: "The application for stay is denied. I am authorized to say that a majority of my colleagues concur in this action. Byron R. White, Associate Justice."

At that point, Shattuck tried to approach other Justices. The language had clearly indicated that the decision was not unanimous. If one could find the proper

ms 1463

Justice on the minority side, whoever he might be, there was still a possibility that a stay would be granted. That would give an opportunity to appear before the Supreme Court and give one's arguments. It would give time to get the arguments briefed properly.

There was no word until night. Then Justice Blackmun responded. "The application for stay having been presented to me, after its denial by Justice White, is denied. Harry A. Blackmun, Associate Justice, January 16, 1977."

There was still one hope. Justice Brennan had not been contacted. The advice came from Washington that if Athay were to call directly, and express the urgency of the situation, that might have impact. On cases like this, Justice Brennan had shown inclinations favorable to them. So Athay, provided with an unlisted phone number for Justice Brennan, called person-to-person, and a voice came on the phone and said, "This is Justice Brennan speaking." Athay had no more than introduced himself and said, "I'm involved in the Gary Gilmore case," when he heard, "Oh, my" on the other end, and a click. He re-placed the call and the same voice came on to say, "I'm sorry, he's out of town." Athay was confident it was the same

~~1464~~ 1464

voice. He felt aghast. How could he ever know whether he'd reached Justice Brennan or not?

He had now exhausted everything he could do for Dale Pierre.

It was getting near time for going to bed when the phone rang, and he was informed that Judge Ritter had now agreed to hear the ACLU taxpayers' suit. Gil Athay put on his suit and coat, and went out to sit in on that particular hearing.

4.

Waiting through Sunday morning and afternoon was murder, just murder. Schiller had a list of questions pinned to the wall next to the telephone. If Gilmore called and he wasn't there, Barry would take the call, or if Barry was also out, one of the girls would talk. The questions were there to ask. Gary was at the point where you didn't have to hem and haw. He understood they were in a countdown. Schiller had come to believe that Gilmore was thoroughly convinced he was going to be executed.

~~1455~~ 1465

Moody telephoned from the prison. "You're going to get a call from the Warden," he told Schiller. "You are going to see the execution." Up to then, though the news had been in the papers, Larry had not received a personal phone call. He was worried sick. If Smith decided to refuse him there would have to be last minute legal maneuvers. The statutes were clear and all on his side, but the situation was likely to be horrendous with last-minute tension.

In five minutes, the phone rang again. Deputy Warden Hatch was saying, "Warden Smith has asked me to advise you to appear tomorrow morning at 6:30 a.m. at the gate with no cameras and no recording devices, if you wish to witness the execution of Gary Mark Gilmore." Schiller said, "Thank you. Will you please deliver this message to the warden. The statement I made to Gus Sorensen is correct. I do not intend to violate any rules and regulations that he has set up. Please assure him that I will conduct myself in the manner in which he would want me to conduct myself."

Of course, in that last phone call with Moody, he had been told that Gary wanted liquor brought in, and they

1466
1466

had discussed the problem of how, under the circumstances, to do it.

one of the typists,
Schiller told Debbie to go to the pharmacy and buy a couple of curved bottles. "If the pharmacy doesn't have them for sale," he told her, "just buy cough syrup, and pour it out."

Debbie wanted to know why the bottles had to be curved. He had to explain that like a hip flask, they made less of a bulge if brought in under your coat. Then he decided the amount would be insufficient, so he sent Tamara over to Western Airlines to purchase, if she could, some of those 1½ ounce bottles they served in airplanes. Western, however, wouldn't go near liquor in Utah on Sunday. So, he called the Hilton and learned they weren't serving until late that day. Finally, he heard of a bar in Salt Lake City where the little bottles were sold, so he had Tamara call the Deseret News. Schiller figured they'd call a high level meeting to decide if one of their reporters could go after it. Of course, Tamara, with her enthusiasm, was getting sentimental now about the idea of bringing liquor to Gary. Of course, at this point, everybody was liking Gary. Even the people that didn't like him, liked him.

1687
1467

Schiller could smell it in the air. Everybody was starting to think, what are we killing the guy for? It had come down to why are we killing him? What's the death going to accomplish?

Then there was Breslin walking around the office, cursing up a streak, "How dare they kill the fucking guy, those fucking people?" Schiller thought Breslin was furious at Gilmore, too, for wanting to be offed.

Larry decided to relax by working at the Xerox machine. He found it was good to concentrate on some empty, numerical activity like collating the pages. Then, Tamara came up to say her newspaper had concluded they wouldn't get the liquor. "I don't care who does it," said Schiller, "get somebody." So, Tamara called her brother who had to be one of the most fucking devout Mormons in fucking Salt Lake, and would you believe it, he agreed to go over and get it as a Christian act? He thought a dying man ought to be able to have his request. That was something. Cardell was straight arrow like you wouldn't believe.

Schiller called Stanger, and asked, "Will the Warden let me see Gary before the execution?" When Stanger told

1468

him that he didn't know, Larry called the prison. The Warden still wouldn't talk to him. Schiller said to himself, "If they do change their mind, I want to be right at the front door."

Now, Schiller studied the prison plan for the media, and decided it was perfect. "I don't believe the Warden made this out," he said aloud. It was a mammoth plan. You could be certain it was not the intelligence of the Warden. They had figured out a way to isolate the prison and totally control who went in and out. Moreover, to keep the press from getting too hysterical, public announcements would be made every 30 minutes on the speaker and a prison representative would come out frequently to talk to the reporters. This showed a sense of how to handle the media that had simply not been evident before. While it would keep reporters out, it did not offend them completely. The statement even went so far as to announce that a few minutes after the execution, the Warden would make a statement and ten minutes after that, the press would be allowed to visit the site. Excellent. Something in the very layout of the language intrigued Schiller. He said to himself, "I now have a match for my intelligence." For a moment, he had a crazy, high-flying idea that he would meet the author of the plan this night and they would get

down to it, nose to nose. "Yes," he said to himself, "I've got to go in now as a member of the press."

Of course, he had made plans for that contingency as well. John ~~Burns~~ ^{Durniak}, the picture editor at Time, had told him he could use Time if he wished. So, Larry Schiller, who as witness to the Execution would not be allowed into the prison until 6 a.m., could now enter at 6 p.m., twelve hours earlier with his newly accredited press pass as a representative of Time Magazine.

At least an hour before six p.m., Schiller hadn't felt like waiting any longer, put the cough syrup bottles filled with liquor in his pocket, and asked Tamara to have Cardell meet them at the gate of the prison. Then they took off. When he got to the gate, a lot of press was already coming in. If they had been calling it a circus before, now it looked like a gypsy caravan. A great many television vans were lined up on the road outside, CBS and ABC, and all the vans for all the movie-reel people and second crews and remotes, plus several hundred members of the press sharing every conceivable kind of vehicle, all going one by one through the main gate. What hit Schiller was that everybody was drinking.

1470

WPA

The prison release with its instructions for the press had not stated whether liquor or beer was allowed, but, of course, the omission was no flaw in the master plan. Who had ever heard of the world press staking out a place for twelve hours without liquor? Besides, it was bitter cold. They all would freeze without booze. Schiller had a flash to six in the morning and three hundred corpses out stiff on the prison grounds. What a shot! Not a stringer alive to send out word to a wire service. Yes, this was truly a master plan. Any demonstrations that took place would be up on the highway outside the prison. They would be shouting their opposition 1500 feet away from the tower in front of the administration building. Besides, the press being inside, what could one get from staging a demonstration outside? If not for this plan, the best men in the media would have been filing interviews with the demonstrators, and encouraging them to come up with their strongest remarks. There would be stories in the morning of what was said before the execution. So this was brilliant. The press would be livid, of course, but it was a beautiful concept: lock up the press.

Of course, the stories would be vindictive the next day, and in the follow-ups, but then the press had been

1471

vindictive all the way. At least the execution would be enacted without a mob scene outside the prison early in the morning when everybody, otherwise, would be trying to get in. Now the mob scene could take place at six o'clock the night before, and the antagonism of the press might even be destroyed by morning. They'd be tired and drunk. Up all night, they would be stupefied in their own bullshit by dawn and thereby no longer a bunch of bulls. When it would be time to move Gilmore from Maximum to the cannery, those reporters would be happy to come in from the cold and wait in one large waiting room or another. What a way to wear them down. This plan, Schiller believed, had to come from Washington. Somebody in the FBI or somebody at least in Bob Hansen's AG office must have contacted the Department of Justice.

When Schiller went through they only asked, "Who are you?" "Larry Schiller." "Who with?" "Time Magazine." They gave him the go ahead. He started down the hill to the parking area but the guard standing there was Lt. Bernhardt, who had let Schiller in that first time when he had said he was working on estate matters as a consultant. Schiller drove by, looking straight ahead, but out of his rear view mirror, he could see Bernhardt getting into his car to chase after. So, Schiller stopped

~~1472~~ 1472

and very calmly got out. Bernhardt came up saying, "Get the fucking hell out of here. You're not supposed to be in until six in the morning. You're not getting to see Gilmore." Bernhardt even started screaming, which called attention to Schiller, last thing he wanted.

Bernhardt got on the radio and called the Warden and then said, "All right, you're in. But you're staying until six the fuck in the morning. Just remember that. You're not getting to see Gilmore." He shouted that before any number of the press. Whatever half-cover Schiller might have had, was blown right there. He was going to be surrounded for the next few hours with microphones. As if that wasn't bad enough, he could now see Tamara walking through the gate. He had left her out there to meet Cardell, but in fact he had not wanted her driving in with him. It was better if nobody knew she was working with him. She could pick up more information that way.

Now, out of the corner of his eye he could see her strolling down the long grade to the parking lot, but Peter Greenberg from Newsweek Magazine had also seen her. There was something in the way he moved on her and talked her into his car that told Schiller Greenberg had figured it out. He could see Greenberg practically giving her a third degree, so as soon as Tamara got away, Larry asked her what Greenberg

wanted to know, and got the news. Tamara had been asked if Schiller was paying her. She hadn't said no, she hadn't said yes.

"By not saying anything, Tamara, you admitted you were," replied Schiller. There was nothing to do but take Greenberg aside.

Schiller was dealing again. "Look," he said, "If you want a story, Peter, I'll give you stuff you don't have. But lay off on Tamara working with me." It was critical to keep that part of the story off him. He didn't want any suggestion that he was paying off a local newspaper. Lord, knew where that could lead. Close the doors. Close the doors. So, he gave Greenberg an interview.

One of Greenberg's first questions was, "Are you going to photograph the execution? Do you have a camera inside?" Schiller had to lay it off. "Look," he said, "if I do get in tonight, I'll give you something." Time would be livin'. He'd have to give them something too.

Afterward, Tamara slipped him the mini bottles, and that was it. Six o'clock, and that was it. They were locked in. The long winter night came down off Point of

1474

the Mountain, passed over the parking lot and the prison
and chased the last of the evening light across the
desert to the West.

XIV
AN EVENING OF SANCING
AND LIGHT REPARATION

John Jacoby went out early to the vigil, and with
him in the first car was David John Jacoby who was an
old hand at demonstrations and wanted to speak to the
police. He also arranged with the Salt Lake County
Sheriff for the protection of the vigilants.

Only trouble is that they were not let inside the
grounds. The state police started them over to an access
road. After a while, they learned that the gates were
closed in the prison parking lot and would not be let out
until the execution was over. Very few vigilantes would
be available to cover them.

It got dark, and it got cold, but they had a moving
service. Forty or fifty people had turned out, and they

1475

XXVIII AN EVENING OF DANCING
AND LIGHT REFRESHMENT

1.

Julie Jacoby went out early to the vigil, and with her in the first car was Reverend John Adams who was an old hand at demonstrations and wanted to speak to the police. He made arrangements with the Salt Lake County Sheriff for the protection of the vigilants.

Only trouble is that they were not let inside the grounds. The state police steered them over to an access road. After a while, they learned that the press was inside in the prison parking lot and would not be let out until the execution was over. Very few reporters would be available to cover them.

It got dark, and it got cold, but they had a moving service. Forty or fifty people had turned out, and they

222

1476

read a litany by the lights of a television crew, who were kind enough on request to tilt their lights in the right direction so the group making the responses could see the print. It was a heavy religious group, with Unitarians, Presbyterians, and bishops galore, but no Catholics. The Catholics in Salt Lake City were very conservative.

Julie had scoured her house for heavy clothing and brought it in the trunk of her car at John Adam's suggestion. He was worried about people who might show up for the evening without warm enough clothing. John Adams borrowed her Subaru and drove it back and forth to Salt Lake City to the Howard Johnson Motel where vigilants were arriving. Through the night he made trips, taking people out to the prison and bringing them back.

2.

At five o'clock when Tony went into the prison to visit with Gary, that part of the press which had already collected in the parking lot, crowded all over her at the gate between the two wire fences that led to Maximum, and started to fire questions. It would be a lot worse when she came out. Much more press. Walking down the outdoor corridor between the wire fences and over the snow, with

1498

1477

the wind coming in off the mountain, Tony was thinking of the first time she'd gone to see Gary at the prison, two days before his birthday on the fourth of December and how tickled he had been when she walked in. It had made her feel good. She hadn't known whether she was angry at him or not, ready to forgive him or never would, but it gave her a different opinion of him after seeing him that day and she asked what she could send him, and he wanted two dark sweatshirts with the sleeves cut off, extra large with the shoulders reinforced just a little, so that they would peak without sleeves. She'd gone to visit him now and again after that. He would always greet her by saying, "God, you're beautiful," which had her blushing. He would also manage it in such a way that three or four guards would come in at one time or another while she was visiting, as if he wanted to show her off.

This Sunday, however, was different. It was, of all coincidences, her birthday, and Howard's family was coming over that evening. So all the while Tony was thinking of her visit to the prison on this last night, she had been cooking the meal for the evening party, and wondering if they would bring Gary out early enough so that she could get back by seven for Howard's folks.

~~1478~~ 1478

It was ten of six before they even let her into the visiting room, however, and then she waited twenty minutes with the other guests. When they opened the door for Gary, he walked right in and put his arms around her and gave her a hug as if he were cracking all the ice of winter in one squeeze, held her so hard and so long, she didn't think he would ever let go. Her mother was right with her, and said, "Now, it's my turn." Ida had never been able to be in the same room with Gary all this time in prison, so Gary let go of Tony with one arm, and hugged Ida, but he never let go completely. When he had finished hugging Ida, he picked Tony up off the floor, and gave her a great big kiss on the lips and wouldn't let go. He must have been holding her for 15 minutes before Tony had to leave to take care of her in-laws.

Gary said then, "You are coming back, aren't you?" and that was the first Tony considered it. It was the look in his eyes. Yet, it was going to be so complicated. "Go home," he said, "and take care of your family, then come back." He was so earnest he was almost pleading and it bothered her real bad. This was the only day Tony

200 1479

had with Howard who was working six days a week on a construction job in Southern Utah and was home only on Sundays.

Before she could say yes or no, Gary gave her another big birthday kiss, and then Moody and Stanger went out with Ida and herself to help the ladies through the crowd, which was now massive. Tony knew why they called them the press. They almost squeezed her to death.

Never had she felt she was living in two worlds at once so much as on leaving this prison and thinking of the birthday party awaiting her at home.

3.

Sunday had started for Bob Moody at six in the morning with his High Council meeting. That lasted until eight. At 9:30, he went to Priesthood meeting, came back for his family, returned to church, and was there until Sunday School concluded at one. Then, all of the Moody family had gone home to have a family dinner together. By four, Ron Stanger and he were ready to drive to the prison. In the parking lot was Vern and his family and his truck, and Tony showed up, and then two cousins of Gary's named

Evelyn and Dick Gray, a nice looking middle-aged couple, and all of them, together with Father Meersman, went over to Maximum Security, and Lt. Fagan was cordial on this night and welcomed them all and showed them the facilities. The prisoners had been fed early, and the gates between the visiting room and the main dining room for Maximum Security had been opened, so that they would be able to pass back and forth between the two rooms during the evening. A considerable space altogether. Perhaps, so much as a hundred feet of movement in the longest direction, and half of that the other way, and a couple of smaller extra rooms were also available for more private conversations. Lt. Fagan's office was open, and the kitchen, and then the booth with the glass window where formerly they had talked with Gary.

Since all this was at the front of Maximum Security with only two sliding barred gates to separate them from the door to the outside, it would not be that difficult to come and go, and this increased, to some small extent, a feeling of greater liberty on this night, even though back of them, barred by a gate, was a long hallway that went back to various cell-rows at right angles to the corridor. Moody had never been back there, and was not familiar with it, so much as respectful of it. It was like the hallway

that led to the cellar stairs in a large oppressive old house. Just as you thought you could hear groans in one of those old cellars so were there always cries and shouts and moans and slamming sounds coming up to visiting area, but awfully muted, as if under the rock.

Since they planned to be there all through the night and wanted to save their good clothes for morning, Moody and Stanger had come in with a change, and also brought a few crackers and soft drinks. The prison offered light refreshments all evening, Tang and Kool-Aid and cookies and coffee, and Father Meersman procured a TV set and put it in there. Somebody had managed to bring a record player with a few records, and altogether with the man in the bullet-proof glass-enclosed booth that overlooked the visiting room all through the night, and the three or four guards always circulating through the kitchen and dining room and visiting room, plus, at various times, Father Meersman and Cline Campbell and the two lawyers and the cousins and Vern and Tony and Ida, it was almost enough for a party.

Every couple of hours somebody would come from the pharmacy with medication. As the evening went on, Bob Moody came to recognize they were giving Gary some kind

of Speed. Doubtless, the pharmacists saw it as a blessing and kept it coming, because in the early hours of the evening, Gary kept getting higher and higher. He was certainly happy. In the beginning, he was so delighted to see Tony, and held her for so long, and kissed her with such cousinly gusto, that Bob and Ron and Vern and the others just sat back and waited, didn't want to interfere or start their own conversations with him since Gary was obviously delighting so much in her visit. Besides, there were chores to accomplish. The guards had brought in a couple of cots with mattresses, and provisions were being laid out for the evening, and then Tony was hardly there for very long before Ron and Bob had to take her on that trip through the double barred gates of the cage and down the distance between the barbed wire fences through the cold air into the incredible swarm of press. It was a matter, until they got her into the truck, of having their eyes and their souls seared with flashlight bulbs and general mania. For they had seen the man, they could report on him, and they kept saying no comment, and looked for Schiller, and then had the sense to say a thing or two to keep the media close with their microphones and tape recorders while Vern could slip around and have a talk with Larry.

1483

Moody and Stanger might have been appealing to the news hunger in the majority of these reporters, but there was a great deal of press and Larry and Vern were also swarmed about. In the squeeze, Vern could only whisper, "Have you got the liquor," and Schiller said, "Yeah." "How," whispered Vern, "am I going to get it in?" "Put the little bottles under your armpit," said Larry, "and keep your shoulders closed." With Vern's large arms that would be no problem. "Fine," said Vern, "but how am I going to get it under my coat." The press was surrounding them as tightly as a crowd packed in around two players of the winning team who got caught on the field after the game was done.

Schiller turned to the press and shouted, "Can't you let this man have a little privacy? You're hounding him. Get back." Physically he pushed on the press a little, not laying on rough hands so much as using just that mixture of pressure and slight hysteria that worked best with reporters. "Give him a little privacy," he repeated. "Do you have to hound him?" They retreated two feet, three feet, maybe five feet and that was room enough for Vern to do something with the liquor. By the time Larry turned

around, Vern was ready to go back to the glare of the lights in the visiting room with the record player going and the TV set, and Gilmore beginning to spend his last night on earth. The little bottles were going fast. Gary would dip into a back room and take a nip, then come out with a wink. Moody thought it was appropriate. He thought if that was what the man wanted, if that was something he could enjoy, then he ought to be able to enjoy it. Moody didn't drink himself. It had been years since he had tasted alcohol, but this was a social event, and if some corner of Moody's mind could hear the criticism of detractors that Gilmore was going to meet his maker in the morning and might be wiser on a sober head, still Moody thought, this is more like a last meal, or a social event. If he wants to go out drunk, that's the way he has a right to go. He thought of how Gary had deliberately not requested his six pack of Coors at the end because he did not want the world to think that he would be unable to face it without something to help him. But now, the Speed was coming in, and the booze.

Yet, at the sight of Gary's pleasure, and the way he enjoyed the feeling of this slight intoxication, for he didn't get very drunk, it began as a nice evening. Gary even took one of the guards into one of the back offices

1706

1485

and gave him some liquor out of one of the curved medicine bottles Schiller had sent in. It was a guard that Gary had sort of taken a liking to and, in fact, the fellow was going to quit in a few days, and had already announced his resignation from the prison.

Bob, himself, loved the idea that he was able to go up to Gary, shake hands with him, hold him, look at him for a second, face to face--it was unexpected how great a need had developed to do something just so simple as that after all these weeks, but, in fact, except for the two or three occasions they had appeared together in court and the one parole hearing, and maybe a time or two when they had been permitted to visit with Gary in Fagan's office, this was the first real face to face meeting without urgent business to discuss, so it was a pleasure to see Gary become loose and grow to enjoy the night.

It was easy and it was relaxed. During the course of the hours, Ron or himself would get up and walk out and get a soft drink in the kitchen, and Evelyn and Dick Gray would go back and forth, and Vern. There was not any terrible feeling of a clock or any sense that outside the prison, lawyers were preparing to seek a stay.

1486

4.

Early that evening when they first came into the room and there was Gary actually in the same place, the two of them able not only to look at one another without a pane of glass between, but actually able to go up and touch, Stanger greeted him warmly, shook hands, then put his arm around his shoulder, not in a hug but in kind of a semi-hug, a masculine hit on the shoulder. It was kind of a victory, if you will, thought Stanger, that they were together, and he had stayed in that sense of glow with Gary.

Later, while the evening was still pleasant, Ron started talking about his boxing experience on the team at the University of Oregon and at BYU, and Gary mentioned that he knew a little about it, and got up, and they started sparring. Ron had assumed it would just be a matter of throwing a mock punch or two, feeling each other out, but Gary started to make it more of a contest. While he couldn't really box, he was a street fighter and threw a lot of punches. Ron kept stepping aside, and avoiding getting hit, but, of course, that wasn't the purpose of the whole thing, it was supposed to be in fun. Yet,

1008 (1482)

Gilmore kind of got this glint and the harder he hit, the more there was to enjoy. Gary sure had this little mean streak. Hit out with his fists closed and Ron was catching it on his shoulders and his hands. At one point, like it was still all in fun, Gary analyzed his own style, said, "I don't lead, I'm a counter-puncher," and tried to lead with a bomb. Ron slipped it, turned his shoulder into Gary to tie him up, then bailed out and walked away. Gary kept pursuing. It wasn't like normal sparring where you go in and tap a man and withdraw, just to show him where he could have gotten hit hard. Gary was throwing one haymaker after another. A couple of times if Ron hadn't ducked and moved back, he'd have been clobbered good. Of course, for the first 20 or 30 seconds, Ron was still feeling beautiful as a boxer. He was faster than Gary. It was just that after 20 seconds, he began to count his age with every breath and Gary was a couple of inches taller, and had longer reach, and a con approach. There was the same flavor, Stanger would find whenever he walked into Maximum. All those cons who worked out with weights, knowing they had bodies. Ron was glad when he found an opportunity to clinch with Gary, hug him, grin, and indicate it was over.

After the boxing, Gary began to make some phone calls. Ron could hear him on the line with the station that played

country and western, kidding them about how bad they were, and then he ended by thanking them for playing Walking in the Footsteps of Your Mind. Next, he went into Fagan's office and made a call to his mother and, of course, Ron didn't try to listen to that and then he came out all excited because he also was able to get a call in to Johnny Cash, but he moved around restlessly as if it bothered him that the record player was going, and nobody to dance with. Yet, things were still in a good mood. The boxing had set up a kind of intimacy between Gary and Ron, and while the ups and downs were beginning to show in the evening, still, it was okay and the mood was all right. Like any long evening, there had to be peaks and valleys, times when there was lots of activity, and then lulls would come down on everybody. During one of them, Gary came over to Ron and said he wanted to tell him something, wanted to be alone with him, and they took a bench in a corner of the visiting room, away from the others.

Now Gary said he had \$50,000, looking Ron right in the eye. His pale grey blue eyes looked as deep as the sky on one of those odd mornings when you cannot tell by the light of the dawn whether good or foul weather lies ahead. "Yes, Ron," he said, "I've got \$50,000, or to be exact about it, access to \$50,000 and I'll give it to you."

All I want is that the next time you go out of the prison, leave me the keys to your extra clothes." These better clothes were in a locker back in one of the little rooms. "There's so much hubbub around here," Gilmore said, "that the guards won't know. Just leave your key."

"What do you have in mind?" Ron asked. Ron couldn't believe how stupid he was acting. "Well, what, really, Gary, do you have in mind?" he asked again, and then it hit him, and he felt doubly stupid. "Ron," said Gary, "if I can get through that double gate in your clothes, I'm out. There's nothing past it but the outside door, and that's always open, I'll just skin up that barbed wire and roll over the rolls at the top. You don't try to crawl over barbed-wire rolls. You roll over them. That wire'll put a few holes in me, but it's nothing." "Then, you drop?" asked Ron. "Yeah," said Gilmore. "Then you drop, and start running. If I get out there, I'm gone. You leave those clothes, all right?"

Ron suddenly realized some of what had gone into these arduous calisthenics Gary had done every day, and Ron forced himself to look back into Gary's eye, Ron would say that much for himself, and he answered, "Gary, when we started, part of our bargain was never any hanky panky." Then he made himself say, "I've grown very close to you. I'd do anything I could for you. But I'm not

going to put my children and my family and my reputation in jeopardy." Gary nodded. He acknowledged it all with that nod. In fact, he didn't seem discouraged so much as confirmed.

Now, Ron was remembering that when Tony and Ida had left, Gary had gone into a rollicking little playful scene where he put on Tony's hat and Ida's coat and pretended to get into the double door with them. It was all very funny at the time and everybody was laughing, including the novice guard on the door who was a young kid Ron had never seen before, but all that guard would have had to do was make one mistake, open both doors at once and Gary would have tried it then. Wow! It came over him. This guy meant what he said. If he had to stay in prison, he wanted to die. But if he could get outside, that was another matter.

5.

Sitting on a bench, swimming above the pain in his knee, taking it all in with sorrow and fatigue and so much emotion at the core of his stomach, and in the center of his heart, Vern was feeling very emotional. He was holding it. He knew his face was set like stone but it

wouldn't have been that hard not to hold up. He almost
busted out once--he didn't know if he was going to cry
or laugh--when he heard Gary on the phone with the singer
and heard him say, "Is this the real Johnny Cash?" That
was all he heard, but it was as crazy as you could want,
and he loved the way Gary was going around in that hat
Vern had bought for him over at Albertson's food store, a
Robin Hood type of hat way too big, but it was the last
they'd had there. Vern had looked at Ida and said, "He
wears funny things anyway, so I'll buy it for him. He'll
like a funny hat," and Vern also thought it was funny how
he could love a guy because he wanted to wear a crazy hat.
Ah, Gary was so full of love this night. Vern had never
seen him this rich. It was like the only thing in the
world he was still mad about was the prison, and he even
had funny attitude there. "My last night," he kept saying
with his grin, "so they can't punish me anymore," and he
looked like a cat going into the back room with Stanger
to have his picture taken as if they were doing something
truly illicit, and Vern came near again to feeling he could
cry when he remembered that day so many visits ago when
Gary had said, "Vern, there's no use talking about the
situation. I killed those men, and they're dead. I can't
bring them back, or I would."

A little later, they were sitting around and Stanger was feeling restless. Talking of escape with Gary hadn't exactly calmed him down, so he said, "Hey, let's go get some pizza," and turned to Lt. Fagan and asked, "Can we get cleared?" Everybody liked the idea. Stanger only had six or seven bucks on him, so Father Meersman kicked in a little and Fagan was good for two bucks and some of the guards pitched in, too, and then Vern came up out of a reverie and said, "Nobody contributes. I'm buying the pizzas. You just take care of getting them."

Fagan volunteered a car and fellow to drive them, and then Ron and Bob and the guard went out and stopped in the parking lot where Stanger slipped out of the car, walked around, found Larry, and told him, "Gary wants to call you around 1:30 in the morning." Schiller said, "Okay, I'll leave the parking lot, and go with you," and Stanger nodded and walked away.

By now, the press wasn't on your ear, elbow and belly anymore. The cold was getting to everybody. People stayed in their vans drinking, and so Schiller just took a long stroll around the perimeter to get to that police car

unobserved. There was a guard in the front seat, and he turned around and said, "Who are you?" but Schiller only said, "I'm supposed to be going out with you," and got in, and lay down on the floor in the back. Stanger, in the meanwhile, had gotten waylaid by a reporter and it took five minutes before he could return. Then they went up the road, and the outer gate swung open and they were out of the prison grounds and Schiller could get off the floor. Everybody started laughing in the car.

If they drove Schiller all the way back to Orem, the prison would find out and wonder why the car had been gone so long. It was better that they head north toward Salt Lake and the place where they could get the pizza and beer. If they dropped him off there, he could call his driver to come and get him. With it all, Schiller still got back to the motel before midnight to sit and wait for Gary to call.

The Pizza Hut was the only place open, and they were the last customers, and ordered pizza with ham, salami and pepperoni, just a variety, Bob Moody thinking he'd hit everybody with the selection and they picked up some beer in a grocery and rode back to the prison where they were met at the gate. At that point, the car was searched and the beer confiscated. It made them mad, but the guard

examining them was so stiff he told them alcohol would not be tolerated on prison grounds. It was that kind of a conversation. The irony was that he didn't even look at the pizza boxes. They could have hidden five pistols in there. Then they proceeded from the outer gate down the entrance road to the tower in front of the administration where the guard at the top spoke down to them like a God from a dark night cloud to say there had been a ruling from the powers that be against the pizza. By which the guard was referring to Sam Smith and the honcho sitting over him, Ernie Wright.

Apparently, he hadn't had the right to let them leave the grounds and when Smith found out in addition that Larry Schiller had taken off, everybody at the top was full of suspicions that plans were afoot to embarrass the prison again.

Then, of all things, new word came down. They could bring the pizzas in, but Gary wouldn't be able to have any. He hadn't put it on the list for his last supper.

By this time, the pizzas were cold and had to be heated up and everybody eventually got to partake of them, but Gary.

1495

They could conceive of the scene in the Warden's office. One big heavy meeting in that place where they did not make decisions. What? Food being brought in from outside the prison and not approved? Stop them. Stop them. Bob could see those little bureaucrats running out of Smith's office to stop them. He got angry and Ron was angry, and both lawyers shouted up to the guard and told him to stick the pizza. When they arrived at the door to Maximum Security, they stood out there and each began to eat a piece out in the cold, but when they went in, to their amazement, Lt. Fagan was very embarrassed over the situation, very. He was a small man, with white hair, a mustache, and a lean build who was usually crisp and pleasant, but he was hangdog now. It was a mess. It was obvious Lt. Fagan was embarrassed about how his superiors had reacted, so after a while a guard came up to Gary and said he could have a piece, too, but by then Gary wouldn't go near the stuff. He gave a look around the room that would have blistered paint, and said, "I hope everybody's enjoying my last meal."

Meanwhile, Father Meersman kept entering from time to time and going out again. He kept them posted with

1496

what was going on in the administration building and, presumably, thought Bob, kept the administration building posted on what was going on with them.

After this episode with the food, there was a feeling of humiliation all over the visiting room and the dining room. It affected Fagan and all of his staff, and all, Stanger thought, because of some jackass bureaucrat. It seemed Gary hadn't put "pizza" on his approved eating list the day before. He could have asked for a hundred dishes. If the Warden had initialled it, he could have had it. But, now, it was too late. Meanwhile, a couple of pharmacists came to give him some more pills. He couldn't eat pizza, but they would feed him speed. Stanger decided the best word for the establishment was "beautiful".

Then, as if that wasn't all bad enough, they now heard that Sterling Baker and his wife, Ruth Ann, who had been given special permission to visit that night, had not been let into the prison. It seemed administration had run a check on Sterling and he had a record, so they wouldn't let him in. He had two traffic citations. There was a real big criminal record for you. They wouldn't let him in. Grotesque, Moody was muttering to himself. Stupid. Idiotic. Asinine.

6.

Tony brought Ida to the birthday party and fed her and got her to sleep, and Ida kept saying, "I want to go back in the morning, but I don't think I can." It seemed like there were thousands of phone calls that night from friends. It also kept Tony thinking about Gary all through her birthday party. She kept saying to her mother, "I want to go back up," and Ida would reply, "Oh, hon, I don't want you to go through all those reporters now they know who you are." Tony thought, "All right, I'll wait and go in the morning," and figured she'd get up at five.

Her in-laws left early and she and Howard were just sitting there talking, but she knew Howard knew she wanted to be with Gary again. She also didn't want to leave Howard. Tomorrow he'd be away again. Besides, Tony didn't want to go back through that press alone--those lights in your eyes were frightening, and you could hear those reporters' nerves snapping with every question. It was the first time she had ever felt like an animal in a cage.

Howard must have been reading her thoughts because he said, "Come on, honey, I'll get you through the press." So,

they left a note for Ida and took off. It was as close to ten by the time they reached the prison and must have used up forty-five minutes getting her through the gate. Security was tight by then. They were accustomed to her face, but Howard was new, and they wouldn't clear him. She had to go and talk to the Warden, and that did mean getting through the reporters outside administration by herself.

Sam Smith wouldn't let Howard in. Tony had the feeling the warden would relent if she kept pushing, but Howard didn't want to. He didn't realize it wouldn't be inside the way he expected it to be. He just kept saying, "How can you sit and talk to someone who is going to die in a few hours?"

When they opened the double gate, there was Daddy and Gary sitting on a cot. Vern was sleepy, looked like he was in a half doze, and Gary was uptight, but they must have become accustomed to people going in and out, because the first gate slammed behind her and they didn't even look up before the second gate opened. They were going through some of Gary's papers, and she was in the room before Gary saw her and jumped to his feet and held her in the air and said, "I knew you'd come back. Thank God you came back."

He whirled her around and hugged her and gave her another big kiss, and Vern said, "What are you doing back

here? It's a long way from morning," but he left them alone.

They sat down and started to talk, and Gary just held on to her hands. He said, "I've grown to know you more in these last three days than I ever had. I wish we had more time together." "I'm sorry too," said Tony.

"Well," he said, "maybe it's for a reason. Maybe if we'd developed a relationship earlier, tonight wouldn't mean so much." Then he asked if she wanted to see some pictures of Nicole, and got out the carton he had taped, and carefully unwrapped it, and showed Nicole as a child, and some sketches of her. "These," he said, "you don't have to look at, if you don't want to," and pulled out a couple of beautiful drawings of Nicole nude, and then a whole series of pictures taken on those photo machines where you would get four shots for half a dollar. Nicole was showing her breasts in those photographs. It was obvious these pictures meant a lot to Gary, and Tony thought they weren't foul. Really kind of meaningful. All the while, Gary kept bringing up more photographs of Nicole when she was five, and eight, and ten, and saying what a beautiful child she was.

Tony said, "She's a beautiful woman now."

"I wish," said Gary, "I could have seen her one more time."

Then he taped up the carton again, and opened another box full of letters from prison friends, and photographs of them, and told her which prison they'd been in. Some officials came in with medication, and handed him the cup and said, "Take them now," and Gary said, "You sure don't trust me, do you?" And when they left, she was still alone with Gary. He took the plaque that Annette had given him that long time ago when the trouble had started with Pete Galovan, and Gary said, "I want Annette's plaque given to Nicole." That was when Tony decided Gary must truly have been innocent all that long time ago. Otherwise, he would hardly give it to Nicole.

The record player was going and Gary said, "Come on, I haven't danced in years." So, they got up. She had heard him sing once and he was a terrible singer, but she could see he was even worse as a dancer. Yet, she enjoyed it. Sitting on the floor, looking through his things, she had felt so close. Like Brenda, Tony'd been married four times, two of them for only a few months and her fourth marriage had been with Howard and that had now lasted nine years, and in less trouble now than ever, a good marriage,

~~1501~~
1501

but Tony had never exactly felt the kind of special feeling she had now. It was like she'd known Gary for a lifetime and all in these couple of hours.

It was a fast dance, and Gary put his funny hat on Tony and fluffed her hair and they danced. She did her best to follow, and when they finished Gary said, "I never really was very good, but I haven't had much chance to go to dances," and they laughed and then he told her that he had talked to Johnny Cash on the phone but it was a bad connection. After he had asked, "Are you the real Johnny Cash?", he had hollered back, "Well, this is the real Gary Gilmore."

They sat down again and Gary said, "I have found something with you tonight that I knew with Brenda through all these years, and I wish I'd made things more equal between you and your sister." When she looked puzzled, he said, "I gave three thousand dollars for you and Howard and five thousand to Brenda and Johnny. I'm sorry I did not make it equal. I never really knew you, and I feel bad about it." She told him the money didn't mean anything.

He said, "You're so many people to me tonight. You're Nicole and you're Brenda and in a way, you're like my mother

in the way I remember when she was young," and Tony didn't know if she was reading his mind, but she thought he was feeling a strong urge to put his arms once more around his mother, and Tony thought of Brenda who had wanted to be with him so bad tonight and was now in the hospital, and Tony felt as odd as if she were both Brenda and herself, both of them there, dancing and holding his arms.

Every now and then a couple of guards would come in and shake hands with Gary, and he would say, "Do you want my autograph?" "Sure, Gary," they would tell him. So, he would borrow a pen and sign the pocket of their shirt or their cuffs and Tony thought they all acted like they really liked him. The pharmacist came back, and Gary said, "Here's this old boy who takes care of me," and the pharmacist grunted and said, "Yeah, you keep me pretty busy with all your shenanigans," but it was like they were friends.

All the while, Tony was reminding herself that Howard was out there shivering in the parking lot. But it was hard to say goodbye. Finally, she told him, "Look, I'll bring mother back and we'll return by five," and Gary said, "I want you here in the morning with me," and put his arms around her and gave her another big hug and said, "Thank

1784

1503

you, for tonight." He held her one more time, and said, "A cool, peaceful summer night, a love filled room. You just brightened my whole night, Tony and filled it with love," and he cuddled her face in his hands, putting one hand on each cheek, and gave her a kiss on the forehead. "You brought my Nicole back to me tonight," he said, and then he gave her a big hug, and Tony said, "I'm going to have to go."

Gary walked her toward the gate and said, "I'll see you in the morning. Go home and take care of Ida," and then he added, "Tell Howard hello. It's so great that Howard came to try to see me," and Tony went out letting him think that the only reason Howard had not been there was that the Warden would not let him, and when she got through the first gate and it closed behind her, Gary took ahold of the bars and watched until they opened the other gate and that closed behind her, and she got her coat on, and left. And then, she never got to see him again.

7.

Up till then, despite the pizza, it had really been a party and everybody was feeling good, and there were no problems, except one so large it removed all sense of other

problems. The atmosphere had been merry. But, now, after Tony was gone, Gary started to get mad about the pizza all over again, and he was very solemn, very upset. Ron remembered how Gary always said, "I don't want a last meal, because they'll play games with me," and Ron knew he didn't want to talk to Gary now.

Nor did Moody. Bob had begun to feel a little fear in the air. A sense of death had come into the visitor's room. It had been there before and gave everyone strength but now it was as if it came creeping like smoke beneath the door. It was getting late. Things had quieted. The record player was not going most of the time and Vern had gone to sleep. Dick and Evelyn Gray were snoozing. Ron went to the kitchen to talk to the guards, and it was then that Gary came over to Bob.

"You wouldn't change clothes with me, would you?" he said, and Bob answered, "No, I wouldn't." Gary began to describe how he could get out if Bob would just give him the clothes. The guards were paying no attention. He could pass through those twin gates as Bob Moody and be out the door of Maximum and over that barbed wire fence faster than you could ever believe. He would just climb up the wire, then do a forward roll over the roll of barbed

wire at the top, pick up a hole or two in his skin, and be running, man. They would not find him. It was a somber, serious moment. "I know," said Gary, "that I can get out of here if you will do it." Bob just had to get his clothing out of the locker and put it over in the corner. If Bob wanted to, it would also help if he took Gary's crazy Robin Hood hat and wore it for awhile. That would be about all a sleepy guard would look for in the way of Gary Gilmore. "No," said Bob Moody, "I can't do it, Gary, and I won't do it."

Cline Campbell had been in and out all night and he had seen the change in mood. The first couple of hours you might have thought it was Christmas morning, but Campbell had to leave at 7:30 in the evening to give a lecture, and didn't get back until close to midnight when it had all changed. Earlier, one guard had been sitting at the head of a cot, and Gilmore in the middle, and Campbell at the foot. In the middle of talking away about nothing at all, Gilmore reached his hand under the pillow and came out with a sample bottle of whiskey. Campbell said, "Oops," and looked around and said, "I see no evil, hear no evil, speak no evil, but have at it, partner, just have at it," and Gilmore laughed. That was earlier and that was merry as Christmas itself.

After the speaking engagement downtown, Campbell rushed back to the prison without stopping to eat, and was hungry as a bear, and frustrated to discover that everybody had gone through the pizza and there was none left for him. It was as if Gilmore and he were the only two with empty bellies in the place, and when they were alone, Campbell had a moment with Gary and said, "It looks like this time is it."

"It's going to go through," said Gary. "They can't stop it now."

"You know," said Campbell, "we're going to meet again. It will be the same for you and me, no matter what's on the other side." They were in Lt. Fagan's office and Gary was still wearing that hat, with a feather which looked like it belonged to Chico Marx. "It doesn't matter," said Campbell, "whether what you feel, religiously, is right, or what I feel, either way, we're going to see each other again. In whatever form, Gary, I want you to know I appreciate you and I think you're a good guy." It was awful, thought Campbell, the more time he spent with Gilmore the less he was able to remind himself that Gary looked like a man who was capable of murder. In fact, by now, most of the

time, Gilmore looked to him like a man who was not at all capable of murder, at least not compared to most of the faces Cline Campbell saw every day in uniform and out.

Father Meersman explained to Moody and Stanger that he had this advantage over almost everybody and anybody else that he'd been through two other executions, and he explained to them how he succeeded in convincing the Warden and his staff it was necessary to walk through the procedure on this night in that every step ought to be taken to be equal to those steps which would be taken when the real execution took place, and they had done that. Some of the prison officials had gone on a dry run and taken those steps so that it would just be calm and dignified when they all participated. They had gone through the whole thing and somebody had a stopwatch and timed it, and that was a normal thing to do for such an important procedure. It was important to have a run through^{cf} the whole mechanics of the execution.

1227
1508

XXX THE ANGELS AND THE DEMONS MEET
THE DEVILS AND THE SAINTS

1.

That Sunday morning, more than twelve hours earlier, Earl Dorius had received a phone call from Michael Rodak to tell him that Gil Athay had advised the U.S. Supreme Court that he would be seeking a stay of the execution. A little more than an hour and a half later, Rodak called again to say that Athay's papers had been received, and Justice White had denied his application for a stay. When no further word came from Washington by the middle of the afternoon, Earl felt confident that Athay had used up his legal actions, and so he went with his wife and children over to her parents' house for dinner, and relaxed for the first time that day. Returning home, however, at 6:30 in the evening, there was a phone call from Bob Hansen to say that Jinks Dabney of the ACLU was trying to reach Judge Ritter at the Newhouse Hotel, and wanted to set up a hearing that night for a court action. On a taxpayer's

lawsuit. It sounded flimsy to Dorius except that it would be in Ritter's court. ~~Earl could wonder whether Judge Ritter would have any fond memories of one young lawyer named Dorius who had filed a Writ of Mandamus against him back in November.~~

Nonetheless, Earl's initial reaction was not one of great alarm. He did not see how Dabney could show that Federal tax monies were being spent on the execution. Moreover, Bill Evans, would appear with him as co-counsel and Bill had a beautiful argument on the validity of the Utah statute. Bill Barrett would also be there, and he had just turned back another taxpayer's lawsuit by the ACLU in State Court Friday before Judge Anderson. To Dorius, Dabney's action had the dank smell of a last ditch attempt.

For an evening that started early, however, it sure went on. When Dorius and Barrett walked into the lobby of the Newhouse Hotel Jinks Dabney was already there with his co-counsel, Judith Wolbach. Bob Hansen was there, and Bill Evans, and Dave Schwendiman, another Assistant Attorney General, plus the bellcap. That was it. They sat around in the 19th century decor of the Newhouse, pure elegant Wild West, halfway between a palace and a brothel. The

lobby had overstuffed furniture in bright red velvet, and red rugs and a double white stairway that fanned out in two half-circles before coming together at the mezzanine level, a large and formal room, just a little shabby now, but the hotel was famous for being the lair and abode of Judge Ritter. After a couple of hours, however, it was no great place to wait.

Judge Ritter was up in his hotel room and he knew the ACLU and the Attorney General were downstairs, but no further word was coming. Bob Hansen, thinking ahead, began to get worried about what they would do if Judge Ritter gave the ACLU its stay, and so, he called Judge Lewis who, as a member of the Tenth Circuit Court, would be a tier above Ritter, and so, could overrule him, to ask if the Judge would convene a special hearing later that evening in Salt Lake provided there was such a stay. Hansen, careful to obey all the proprieties, had Jinks Dabney on the line at the same time.

Judge Lewis, however, said he would not hold such a hearing by himself. It was too great a responsibility for one Federal judge to overrule another when you were sending a man to death by such a decision. That awoke Earl to three possibilities.

~~1511~~ 1511

By nine o'clock, Dabney got up his nerve, and told the desk clerk to inform Judge Ritter once more that they were there, and that he would send his legal documents upstairs. In less time than Dabney expected, Judge Ritter telephoned down that everyone was to go across the street to the courtroom. A security guard would let them in.

~~There was nothing dramatic in the way Dabney related this news to the others. He was one man who would never appear dramatic. Originally from Virginia, his name was V. (for Virginus) Jinks Dabney, a bland looking fellow with horn rimmed glasses, who wore seersuckers in summer and tweed jackets in winter. He had a quiet, perky, remote way of speaking as if he might know you for ten years before he would raise his voice. It was obvious he down-played drama in its various sinister forms. Did it so well, he could make his lack of dramatic. Now, he just told them all quiet what Ritter had said, but when Earl heard the news, he had a dramatic reaction within--a sure feeling that the case was lost. He had honestly supposed Judge Ritter wouldn't even consider it. The legal arguments were so thin, and the thing had been submitted so late. Then his gloom increased with the knowledge that Bob Hansen~~

wasn't even going to be with them. Judge Ritter was so ill disposed towards the Attorney General's Office in general, Hansen felt, and to himself, in particular, (what with his legal actions to strip Ritter's power) that it would literally hurt their chances if his face was seen in court. So, he left. He, for one, was going to get some sleep. That depressed Earl further. Bob sounded like he expected to be needing it later.

It was spooky going down the halls of the courthouse in the dark, with just a few maintenance lights on, but by the time the lawyers had settled at their tables, a number of crime and court reporters had started filtering in. Everyone was beginning to feel more serious by the moment. Then began a long, cruel wait for Judge Ritter to arrive.

~~At the table for the Assistant Attorney Generals, which in this case was the defendant's table, Earl was watching Jinks Dabney and Judith Wolbach at the plaintiff's table. Earl was trying to quiet his temper, which took so little to trigger, and was always so expensive in court. He reminded himself of the time he had gotten sufficiently angry at Schiller to fail to cross-examine him properly. No matter, he was furious. It was outright unfair of the~~

1513

ACLU, he felt, to wait until the night before the execution to bring in their case. He didn't mind that their case was weak. It was ethical to bring in any case you could, if it was remotely plausible. You could go in, even if 99% of the case was against you, but it was unfair to wait till the night before an execution. What if Earl's office had not been trouble-shooting every issue now raised? What if Earl's office had not decided to devote good working hours to trouble-shooting these possible lawsuits? Without such foresight the ACLU would have caught them unprepared and that would have been unfair to the State of Utah. Timing like this might not be, in the strictest sense, unethical, but it was a downright, unfair ploy.

2.

Over at the plaintiff's table, Judy Wolback was feeling pretty mad ~~on her own~~. Jinks Dabney was a good courtroom attorney, but she herself had had very little experience in cases of this sort, and she was pissed off at her own ACLU. ~~Where were~~ ~~Why in a major case like this, could they~~ ~~only come up with herself who was unqualified, and with~~ ~~Jinks who was only partially willing. He was an awfully~~ ~~good lawyer, but not exactly the most enthusiastic adherent~~

1735

1514

~~of the ACLU. Jinks had a promising career ahead for him~~
~~in Salt Lake, and it didn't help a rising young legal~~
~~talent to be known among all these gung-ho Mormons as an~~
~~ACLU advocate. So Judy was curious where~~ all the big ACLU
attorneys ~~were~~ from the big firms in the East who were
supposed to contribute their massive liberal expertise?
~~and get this off the ground.~~ She and Jinks had wound up
with the case by default. She couldn't comprehend it, a
case as big and interesting as this. Yet, it had been left
to the local talent.

Attorney General

~~Judy had tried every trick she knew to bring in more~~
~~of the ACLU including that release she gave to the newspapers~~
~~of her conversation with Warren Belli. He had said he'd~~
~~be glad to bring in a damage suit for the Gilmore family~~
~~against the State of Utah if Gray was executed on a defec-~~
~~tive statute. She had thought it might throw a scare into~~
~~Bob Hansen, because, politically, it could be disastrous~~
~~for him if Utah lost a few million bucks that way, but all~~
~~she had gotten for her pains was a truly weird response~~
~~full of pompous hoopla for the electorate. Hansen~~ said
there was no pending question as to the constitutionality
of Utah's death penalty statutes. No question? Why, only
an idiot legislature like Utah's, could pass a statute that
didn't insist you had to have an appeal for the death

penalty. The whole idea, even among conservatives, was to be cautious about capital punishment. Nobody wanted blood baths any more. Even from a conservative point of view, the way to get capital punishment was by emphasizing that you had every safeguard against killing a man for too little. Yet, Utah--leave it to good old Utah--had neglected to make the appeal mandatory. What could be more defective, an idiot child?

~~All the same, this taxpayer's action was an awfully~~
hokey basis for a suit, Judith thought, and consoled herself with the thought of the form letters she sent to the defendants, a sterling list of culprits!--the Governor, the Lieutenant Governor, the Attorney General, and the Warden all accused of wrongful acts and unlawful expenditures. She wished she could have seen their faces. Judith loved the way that letter had been delivered by hand. Her own daughter, very much involved, was the one who had done it. Judith's daughter, bless her heart, maybe because of the Jewish blood of her father, was a very politically conscious young lady, and had been upset with Judith when she discovered her mother was practicing law to make money. She thought that was wrong, and one should not worry about money, and should just go ahead and file all kinds of political suits. Bless her heart. Judy Wolbach thought

1516
1157

~~Thank God she feels that way. Still, the mark of how
picayune were these ACLU resources was that Judy didn't
know how she would have gotten any letters and messages
out to anyone this Sunday without her daughter to serve
as runner.~~

3.

While he was waiting, Jinks Dabney began to think of a lunch he had once with Craig Smay who'd been Ritter's law clerk until a year or two ago. They had talked about Judge Ritter, and Dabney felt he learned quite a bit through that lunch. It had left him full of laughter and awe at Ritter's prodigious propensities as a Federal Judge.

Judge Ritter, Craig Smay had explained, regarded himself as an outpost of good sense in a desert of craziness. The accusation that he was carrying on a vendetta against the Latter Day Saints wasn't really true. He didn't regard Mormons as worthy of a vendetta. While Ritter, born a Catholic, and now a subscriber to no religion but the U.S. Constitution, had no patience with the desire to sway people's minds through religious doctrine, he disliked even more the way the Mormon Church owned the land, ran

the banks, ran the politicians, wielded the power and put a gloss of religion over the top. That did offend him. Besides, he looked upon their religious doctrine as basically silly. All those Joseph Smith miracles. On the other hand, he didn't decide against them just because they were Mormons. Ritter had too profound a respect for the facts in a case, and the laws applicable to those facts.

Ritter's attitude toward lawyers, however, was something to put fear into the stomach of many a good member of the Bar. Mormon or not. One time he became disgusted with the job a lawyer was doing and asked what he had charged his client. When Ritter heard it was \$500, he said, "That will be the fine in this case." To the client, he said, "You've already paid your fine.. Don't give your counsel another penny." The poor lawyer wanted to crawl under the desk. Another advocate kept speaking in so low a voice that Ritter asked him, "Why are you whispering?" and the fellow answered, "Because I'm scared." A veteran trial lawyer went into Judge Ritter's courtroom the way common mortals went to the dentist. Ritter had a mind that could see where arguments were leading faster than a dentist could see decay, and he gave hell to people

who wasted his precious time. You not only had to do a good job, but do it quickly.

That impatience, said Smay, got him in a lot of trouble. Once a legal matter was clear to him, he would make his judgment. He would not plod through the getting out of a long careful opinion with 50 or 100 citations. The 10th Circuit would then complain that the record was not complete, but Ritter's attitude would be that the others were too stupid to see that he was right. Naturally, he'd get reversed. Then the Supreme Court would affirm him. His affirmance rate with the US Supreme Court was exactly the opposite of his reversal rate with the Circuit Court.

~~Of course, this contempt for judges less intelligent than himself closed Ritter off from recognizing that the man for whom he had found in the first place was the one hurt by the reversal. By the time the Supreme Court affirmed Ritter two or three years later, it was often too late to do the original fellow any good.~~

Dabney had heard these stories before. They were legends in the Salt Lake law courts. But Smay had been there when they happened and he could tell you about the Judge's personal life. There, the legends were wrong.

1519

government appealed and Ritter was overturned. The case came back to him. In the next trial, one of the tribal chieftains testified that the horses were ceremonial ponies, so the Judge decided they were now worth \$400 apiece.

Ritter later confided to a few friends that the piece of evidence which caused him to think the government ought to pay, and pay well, was that the horses had been packed into a truck with open boards, and one mustang's leg was sticking through the slats. The government, instead of opening a door to extricate the horse, which would have been a lot of work, just took a chain saw and cut the horse's leg off. Those animals were going for dog meat anyway. Ritter said, "This shows the cavalier attitude of the government toward our horses."

jinks

What Ritter gave you, Dabney told himself, was excitement. After leaving his courtroom, you could say to yourself, "There isn't another bench like this in the whole country." Whether you won or lost wasn't always so important as that you had had a hell of an experience.

Judge Learned Hand had once written a letter that Ritter treasured. It said Willis Ritter had one of the

~~1293~~

1520

finest minds Hand had ever seen on the bench. That was what Dabney was counting on most.

4.

Considering the hour, which was well after ten on Sunday night, and the man's age, Earl thought Judge Ritter looked surprisingly spry when he finally showed up, and Judy Wolbach was impressed with the Judge's God-like voice. Even when he said no more than "The papers appear to be in order. I'll hear you," she fell in love with the sound. It was a slow, deep voice with a lot of resonance, and such a plump, nice, stern-looking man. He would make a good God for the flood, if God was close to 80.

Gil Athay was in court, Judy noticed, and some of the top liberal lawyers in town, Richard Giaugue and Danny Berman, his partner, about as Salt Lake Establishment as you could get if you were also a liberal. Jinks, with them for an audience, would be off to a good start. He loved trial work, and under this kind of pressure, didn't falter a bit. Began with a dry, perfect presentation, exactly the reason he was a successful attorney. If she had been up there, Judy thought, she would have wasted time carrying on about how Attorney General Hansen didn't

even have the nerve to appear which probably would have been a mistake. Instead, Jinks went right into his argument.

~~Dabney had tried two jury trials in front of Ritter and been in his court twenty-five or thirty times. You never got over the anxiety that you could mis-phrase something and run into one of Ritter's sore spots. He could rule against you right then. Given Ritter's love of dispatch, Dabney knew he was taking a chance in talking a lot tonight, but he thought he had to. In variety lay the strength of this frail case.~~

"Your Honor," Dabney began, "we have attempted to obtain justice in virtually every court in this country, and this is the final effort to stop what we consider to be a clear unconstitutional exercise by the State of Utah to execute a man before the Death Penalty Statute has been examined by either the Utah Supreme Court or the Supreme Court of the United States.

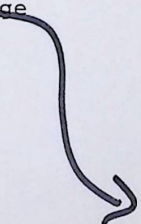
"We are here, Your Honor, on a matter of which I would consider to be of the highest import. We are asking this court for a temporary restraining order to stay the execution. . ."

1522

~~Dabney did not have his argument written out. What he had to say had been placed in five piles of paper. Once he got going, he would be able to reach for a pile, and explore its points, but first, he had to summarize the complaint.~~

Since it was a taxpayers' lawsuit, his claim was that the Governor of Utah, the Attorney General, and the Utah Supreme Court, were spending public funds "unlawfully" in going ahead with the execution of Gary Mark Gilmore because the Utah statute on the death penalty might be unconstitutional. If they were not restrained, their actions could result in future losses of public funds. The state could yet be brought to trial and found liable for having allowed a wrongful death action.

Having completed this introduction, Dabney decided to add a ghost claim, not present in his brief. "It has recently," he said, "come to our knowledge that Mr. Gilmore might consider changing his mind on his intent to fight for his life, if Nicole Barrett were to indicate to him that he ought to do so." ~~Since the only way this knowledge had come to him was by way of a discussion with several~~



other members of the ACLU, and a quick unprofitable follow-up talk with Stanger, he added quickly, "We do not have this particular allegation in the pleadings because we're not positive that we really have the basis upon which we can ask for this relief, but, if I may at this time, it seems to me that if Mr. Gilmore is of that particular state of mind, we ought to allow him to have some kind of access to Miss Barrett in the presence of her attorney, or court-appointed psychiatrist, to determine whether he would change his position. It seems to me that that's a very small request considering that we're confronted with the execution of a man."

Dabney threw it in because it sounded good. It could have the effect of moving the judge's stomach over a little nearer to ruling in the ACLU's favor. Often, to win a case like this, you not only had to give a judge good legal reasons to satisfy his mind, but also had to offer something that appealed to his gut. Soon enough, Dabney would give his argument on why Utah's death statute was not valid, and Ritter might decide the ACLU was right on that, yet still say to himself, "Gary Gilmore wants to die, so what the hell?" If, however, there was a chance Gilmore could yet change his mind about dying if Nicole

~~1747~~
1524

told him not to, and all it would take to avoid any more shedding of blood by the state was one meeting!--well, Dabney thought that might appeal to Ritter.

Next, the lawyer went to the legal merits. He said the Utah Death Penalty Statute did not obligate a higher court to review the sentence of death. Without this mandatory review, regardless of the defendant's wishes, how could one ever determine whether the original judge or jury hadn't made some serious legal error that could hurt innocent defendants in the future? Dabney had not forgotten that Judge Ritter kept a tattered little copy of the U.S. Constitution in his desk. According to Craig Smay, he had had it since his law school days fifty years ago. So Jinks now added that the 8th and 14th amendments would certainly be violated if this case was not compared with all other death cases since those amendments had a requirement that the death penalty not be "capricious or arbitrary". Certainly, Mr. Gilmore's desires had to come second to the constitutionality of so large a question.

"Gary Gilmore, knowingly and intelligently, with full knowledge of his right to seek an appeal in the Utah Supreme Court, has waived that right," Dabney read aloud. He had just quoted the majority opinion of the U.S. Supreme

1748
1525

Court in the Bessie Gilmore case, done it, in fact, before Earl Dorius could do it. Now he would try to discount its force by pointing out that ~~these words only applied to Gilmore's positive right, in his own person, to take or not take an appeal. Chief Justice Burger, however, had also quoted Justice White's remark that Gilmore was not able, "to waive the right to state appellate review."~~ Then Burger had added: ~~"the question is simply not before us."~~ Right there, was the difference, Dabney argued.

Gilmore's right to waive an appeal was separate from the constitutional question. The Supreme Court had certainly not decided the constitutional question in the Bessie Gilmore case. The ~~eminence~~ of the need for mandatory review, had not only been raised by three dissenting justices in that case, but, indeed, two other justices, Mr. Chief Justice Burger, and Mr. Justice Powell, ~~by the example of the opinion he had just quoted,~~ might also concur with the original three dissenters. Dabney had thereby succeeded in proposing that the Supreme Court would be likely to bring back a majority in any case that posed mandatory review.

To fortify this supposition, he cited three well-known cases: Gregg v. Georgia, Proffitt v. Florida, and Jurek v. Texas. In each instance, the Supreme Court had

upheld the death-penalty statute. In each case the death-penalty statute had mandatory appellate review.

On the other hand, Collins v. Arkansas and Neal v. Arkansas had been sent back by the Supreme Court for lack of such mandatory, meaningful appellate review. "Those statutes are unconstitutional."

~~"The State of Utah proposes to execute a man under an unconstitutional statute," Dabney said. "At this same law raised questions which have never even been passed upon by the highest court of this state, much less by the highest court of this land. Your Honor, this court is the last chance for justice to prevail. He had concluded his opening statement."~~

While Earl thought Jinks' argument was not that strong, still he had to admit that for a quiet, laid-back low-key personality like Jinks Dabney, it had been a masterful presentation. The ACLU, Earl thought, were fortunate to have him.

5.

Dorius began his reply. As he understood the plaintiff's application, he remarked, they were here in court

1527

because "federal monies are being expended unlawfully. . . for the purpose of executing Gary Mark Gilmore," under an unconstitutional statute. "The first basis for granting relief," Earl stated, however, "must be substantial showing of likelihood of success on the merits." A taxpayer's suit was, in effect, not to be encouraged unless its chances of winning were considerable. This was here not the situation. "We know," said Earl, "of no federal money that has been appropriated specifically for the execution of Mr. Gilmore, and we submit, on that element alone, the plaintiffs are merely conjecturing the expenditure of federal tax monies."

Now Judge Ritter spoke for the first time. The argument had come to the first place where it could be decided at a stroke. "What," said Ritter, "do you say to that, Mr. Dabney?"

"If it please the court," Dabney replied, "our information is that the Division of Corrections' budget for the fiscal year 1976-1977 contains a federal grant in the amount of \$501,000." His source, he mentioned, was a study done by the League of Women Voters in 1976.

Quickly, Dorius replied that this was a general appropriation. "The plaintiffs," he said, "are unable to

show that any of these particular monies have been designed for the carrying-out of this execution." There was a silence after that.

When Ritter ~~however~~, made no comment, and asked no further questions of Dabney, ^{Jinks} ~~he~~ let it lay. Dabney had been tempted to say, "Half a million dollars in Federal funds was given to the Utah Bureau of Prisons. I assume the Utah Bureau of Prisons has something to do with the proposed execution of Gary Gilmore," but he did not. So long as Ritter seemed ready to let them remain in court, he would not try at this point to improve his reply. Standing, after all, was the touchiest point in the whole damned deal. His arguments for winning on grounds that the Utah statute was unconstitutional were considerably better than his right to be in court at all. So he sat down fast.

when Dorius finished, Bill Evans took his turn in behalf of the state of Utah.

~~it had been tempting, nonetheless. Dorius would probably have answered that the federal funding in question had been specifically earmarked for one or another specific program--for convicts' food and clothing, for example or for ping-pong paddles in prison recreation rooms-- odds are Dorius would be able to show where the money had been spent. Then Dabney could come back by saying~~

~~was present in the Utah system.~~ From the decision of the Supreme Court in Gregg v. Georgia, Evans argued that the Supreme Court did not insist on mandatory appeal: "Each distinct system," (said the Supreme Court), "must be examined on an individual basis." They had never said that mandatory appeal was the only system that would satisfy their concerns. "That's exactly the reasoning the United States Supreme Court attempted to avoid."

Bill Barrett was next. "It seems to me," he said, "that with this taxpayer's suit, the plaintiff is attempting to stop an execution, not stop the wrongful expenditure of tax dollars." Moreover," said Barrett, "these plaintiffs lack standing. They have not established that they have a good-faith pocketbook action." It was a short point and a strong one. Dabney felt the time had come to produce his special argument on standing.

"If I may, your Honor," said Dabney, "Mr. Barrett left out a very significant case when discussing the standing question. That is Flast v. Cohen, a decision of the United States Supreme Court in 1968. In that case, your Honor, which was a taxpayer's case to prevent the expenditure of certain funds by Congress and the Senate, Mr. Chief Justice Warren wrote that the only basis upon which this particular

~~1530~~
1530

action was brought was that the plaintiffs were taxpayers of the United States Government. Nonetheless, Chief Justice Warren found that there was, in fact, adequate standing." Judge Ritter looked up. "Tell me that again," he said.

Here was the crux of the case, Dabney felt. He would come out with or without standing. The basis, he explained, upon which Chief Justice Warren found standing in Flast v. Cohen was "a balancing concept between the amounts of money, on the one hand, with the type of interest on the other." Dabney went on to explain that if you had a taxpayer's suit where the danger to various public rights was not terribly important, but a lot of money was involved, that was a legitimate suit with good standing. "On the other hand, if the legal interest is of extreme importance, then the court does not have to become so concerned with the financial interest." If low on one side of the situation, you had to be high on the other. Since the death penalty was the ultimate sentence of the law, it seemed to Dabney that you did not need very much taxpayer's money to be involved in order to have powerful standing. The right was so important that the sum of money concerned could be small.

~~1986~~

1531

6.

After that, Dabney felt stronger. Ritter did not reply, but Dabney felt standing grow beneath his toes. *The hearing*

~~"We are dealing," he said, "with a civil rights matter, the expenditure of funds to execute a human by the state of Utah under an unconstitutional statute." Dabney shook his head. "They say that Mr. Gilmore had a hearing before the Utah Supreme Court. The only hearing that was had there, your Honor, was questions to Mr. Gilmore: 'Do you want to appeal or not appeal?' And he said, 'I don't want to appeal.' And they said, 'Do you know what you're doing?' And he said, 'Yes, I do.' And they said, 'All right, we'll dismiss your appeal.' Now that's the hearing they had up there. It dealt with the right of Mr. Gilmore to take an appeal. The fact that Mr. Gilmore doesn't want to take an appeal does not dismiss the Utah Supreme Court from taking it. There must be mandatory, meaningful appellate review, and the twenty-minute hearing before the Utah Supreme Court cannot in any way be construed to be mandatory meaningful, appellate review. Regardless of what Gilmore wanted, the Utah Supreme Court had to take that case. When they didn't, we couldn't know whether~~

continued, when

~~temporary restraining order serving the execution of~~
~~Mr. Gilmore. "Thank you."~~

~~The state had nothing further and~~ Judge Ritter declared
a recess at 11:39 p.m.

At first Judith thought they had won. It had been such a good case, and both sides had had a full hearing. There was no attempt to rush anyone, and no innuendos from the bench. Judge Ritter had hardly said a word, and then he had gone out. The only trouble was that now he stayed out. When he didn't come back in twenty minutes, Judy Wolbach began to worry.

When he didn't come back in an hour, she got to the point where she couldn't understand what was going on. If Ritter was taking this long, she had to conclude that he was ruling against them. After Dabney's fine work, it would be very difficult for Ritter, ethically and morally, she thought, to go along with Gilmore's execution. So, if the judge was taking this long, he must be ashamed to come out. Judy began to feel all over again how very weak their case had to be.

On the other side of the courtroom, Earl Dorius was having the reverse reaction. Precisely because the judge was taking so long, he was convinced they had lost. Usually, Ritter didn't write out his opinions. He released them from the bench. Sometimes, he would release them a split second after the attorneys had finished. The fact that he was writing an opinion suggested that he was trying to avoid an off-the-cuff statement, and instead was trying to put out a paper that would be sufficiently well-reasoned to hold up on appeal. Mike Deamer agreed with Earl, and went out to phone Bob Hansen and predicted they would lose. In response, Deamer was told that if he proved right, they should all go over to the State Capitol Building right after the verdict was read.

It got to be a very long recess. The lawyers mingled with the news reporters. Everyone seemed uneasy. It was sinking in on Earl how extremely fatigued he felt from the last few days. One suit after another, faster than birds flying overhead.

About this time, close to midnight, fifty miles away, Noall Wootton went to bed and could not sleep. In the quiet night of Provo, he lay awake at midnight. Wootton

~~1534~~ 1534

was waiting for 6 AM to come and his investigator to pick him up and drive him out to the state prison to witness the execution.

THE LAST TALK

About four o'clock in the morning, with everybody half asleep, Gary moved into St. Pagan's office and got a callout call out to Jerry Schiller at the Travelodge hotel. Schiller, who had been waiting by the phone, talked to him with all the post-up questions of the last month and a half. "How are you, Gary?" were his first words. Maybe it was the lateness of the hour, or the accumulation of fatigue, or it could have been the pressure of all he wished to accomplish with this last interview, but Schiller got to his subject fast. "At some point, Gary," he said, "let me in the morning."

"Garden," said Schiller.

"At one in the morning," Gary continued. "do you think you still have to hide anything about your life?"

"Like what?" said Schiller.

1535

XXXI THE LAST TAPE

1.

About one o'clock in the morning, with everybody half asleep, Gary moved into Lt. Pagan's office and got a collect call out to Larry Schiller at the Travelodge Motel. Schiller, who had been waiting by the phone, seized it with all the pent-up questions of the last month and a half. "How are you, champ?" were his first words. Maybe it was the lateness of the hour, or the accumulation of fatigue, or it could have been the pressure of all he wished to accomplish with this last interview, but Schiller got to his subject fast. "At this point, Gary," he said, "at one in the morning."

"Pardon," said Gilmore.

"At one in the morning," Larry continued, "do you think you still have to hide anything about your life?"

"Like what?" said Gilmore.

1536

"I'm not asking you to tell me what it is, you see? I'm just asking if there's the feeling that you want to hold back something."

Gilmore sighed. "Do you have anything specific?" he asked.

"Well, let's say," said Schiller, "did you ever kill anybody besides Jensen and Bushnell?"

"No," said Gilmore.

"No," repeated Schiller. When there was a silence he found no way to continue on that line of inquiry. Nothing to do but try another. "Is there anything about your relationship with your mother or your father that is so personal to you, that you feel even at the moment of death, you'd rather not talk?"

"Goddammit," said Gilmore over the phone, "I'm getting pissed off at that kind of question. I don't give a damn what anybody else has said. I've told you the fucking truth. Man, my mother's a hell of a woman. She has suffered with rheumatoid arthritis for about four years and she's never bitched about it at all. Now, does that tell you anything?"

"That tells me a fucking lot, right now," said Schiller hoarsely.

"My dad got thrown a lot in jail, when we was kids," said Gilmore. "He was a rounder. My mother would say,

~~1764~~ 1537

'Well, he walked out,' and she let it go at that. She did the very goddamned best she could, and man she was always there, we always had something to eat, we always had somebody to tuck us in."

"Okay," said Schiller, "I believe you."

"What about your mother?" asked Gilmore.

"My mother," said Schiller, "was a rough, hard woman. She worked every day. She used to put me in the movies with my brother. We'd watch movies every day while she scrubbed floors for my dad." Seeing these movies every day, Schiller had learned about motivation. Much of human motivation he had decided for himself in later years, came from the idea of human nature that movies laid into one's head. When he could make remarks that brought back movie plots, people acted on them. So the story he told Gilmore was something of a movie scene. In actuality, his family had been in those kind of financial straits for only a few months, and in that period, his mother had to scrub floors, but the idea of a life spent on one's knees certainly mollified Gilmore.

"My mother," said Gary, "worked as a buswoman. She didn't have any money, and she was trying to hold onto a beautiful house that we had with a nice swing-around driveway where you drive up and it makes a circle. She wanted.

that. She wanted some things. She lost it. When she did, she moved into a trailer. She never bitched about it."

"You really love her, man, don't you?" said Schiller.

"Goddammit, yes," said Gary. "I don't want to hear any fucking bullshit that she was mean to me. She never hit me."

At that moment there was an interruption on the phone. "Hello," said a voice. "Hello," said Gary. "Is this Mr. Fagan?" said the voice.

"Who's this?" asked Gary.

"This is the warden." Sam Smith's voice was full of tension.

"This is Mr. Gilmore," said Gary modestly, "I'm making a phone call that Mr. Fagan approved."

"Okay, thank you," said the warden, "pardon me," and he hung up.

Schiller felt, however, he had better hurry. There was something in the warden's voice that sounded like he was just about holding on to himself. So Schiller took his last crack at the question he couldn't get Gilmore to answer to his satisfaction. "I believe you had rough breaks," he said to Gary. "You got into trouble and had a temper and were impatient, but you weren't a killer.

~~1534~~
1534

Something happened. Was there something that turned you into a man who could kill Jensen and Bushnell, a feeling, an emotion, an event?"

"I was always capable of murder," said Gilmore. "There's a side of me that I don't like. I can become totally devoid of feelings for others, unemotional. I know I'm doing something grossly fucking wrong. I can still go ahead and do it."

It wasn't exactly the answer Schiller was hoping to hear. He wanted an episode. "I still," he said, "don't understand what goes on in a person's mind who decides to kill."

"Hey, look," said Gilmore, "listen. One time I was drivin' down the street in Portland. I was just fuckin' around, about half high, and I seen two guys walk out of a bar. I was just a youngster, man, 19, 20, something like that, and one of these dudes is a young chicano about my age and the other's about 40, an older dude. So I said, hey, you guys want to see some girls? Get in. And they got in the back. I had a '49 Chevrolet, two door, you know, fastback? And they got in. And I drove out to Clackamas County, a very dark. . .now I'm tellin' you the truth, I ain't makin' this up, I'm not dramatizin', I'm going to be blasted out of my fuckin' boots, and I swear to Jesus Christ on everything that's holy that I'm tellin' "

~~1540~~ 1540

you the truth ver-fuckin'-batim. This is a strange story."

"Okay."

"They got back there," said Gary, "and I got to tellin' them about these broads, I was just embroiderin' how they had big tits and liked to fuck and had a party goin' and how I left the party to get some guys to bring out there because they were short on dudes, and these two were about half drunk, and I drove 'em down this pitch-black fuckin' road, it had gravel on it, you know, not a rough road, black, smooth, flat, chipped fuckin' concrete, that's how I remember it, and I reached down under the seat--I always kept a base-ball bat or a pipe, you know. . .and I reached down under the seat. . .just a minute."

There was a silence, and then Gary broke it off.

"Jesus, fucking Christ," he said over the phone, "Lt. Fagan just walked in and told me that Ritter issued a stay. Sonofabitch. Goddamn foul motherfucker."

"Okay," said Schiller, "now, let's just hold this shit together. You can hold it. You've held it together before, man." He was trying to get the end of the story.

Through the mouthpiece, Larry heard him talking to Fagan. "Ritter definitely issued a stay," Gary said. "Says it's illegal to use taxpayer's money to shoot me."

1541

"Yeah, Gary," said Schiller softly. There was a long pause and then he declared, "Now, you know the meaning of torture. You couldn't define what the roughest torture is. What Ritter just did, is." "Yeah," said Gilmore, "Ritter's a bumbling, fumbling fool. Yeah, yeah," he said, "Yeah, yeah, yeah, yeah, yeah, yeah. Foul cocksuckers," he burst out. "A taxpayer's suit. I'll pay for it myself. I'll buy the bullets, rifles, pay the riflemen. Jesus, fucking goddamned Christ, man, I want it to be over." He sounded like he was close to crying with frustration.

"You have a right for it to be over," said Schiller, "an inalienable right."

"Get ahold of Hansen," said Gilmore.

"Get on the fucking phones, girls," shouted Schiller. ~~to be heard and to be seen.~~ "Get an attorney in Salt Lake City named Hansen at home."

Gilmore said, "He's the fucking Attorney General of the State of Utah."

"Attorney General of the State of Utah, okay?" Schiller repeated to the girls.

"Tell him to go to the next highest judge and get Ritter's bullshit thrown out."

"Maybe," Schiller thought, "I've seen too many movies myself." He could hear his voice exhorting Gary

to live in the kind of pep talk he had heard in many a film.

"Gary," Schiller was saying, "maybe you're not meant to die. Maybe there's something so phenomenal, so deep in the depths of your story, that maybe you're not meant to die right now. Maybe there are things left to do. We may not know what they are. Maybe by not dying you may be doin' a hell of a lot for the whole fuckin' world. Maybe the suffering that you're doin' now is the way you're giving back those two lives. Maybe you're laying a foundation for the way society and our civilization should proceed in the future. Maybe the punishment you're going through now is a greater punishment than death, and maybe a lot of fuckin' good's gonna come from it." Abruptly, he realized he was moving himself a good deal more than he was affecting Gilmore. "You're not listening to me, are you?" asked Schiller.

"What?" said Gary. "Yeah," he said, coming back, "I'm listening." "Let's look at the other side of it," said Schiller, "Let's get through the next hour together. You know they're making you suffer like nobody's suffered."

Gary's voice sounded like it was close to snapping. "Do me a favor," he said. "I got to get off this fuckin' phone. Because Mr. Fagan wants to use his phone. Get ahold of your girls."

1270
1543

"Right."

"Give 'em each a kiss for me. Tell 'em to get ahold of Mr. Hansen. Find out what the fuck can be done to overcome that guy immediately. That fool Ritter. He'll do any given thing on any fuckin' given day. And call me back."

"You gotta call me," said Schiller. "I can't call you."

"I'll call you back in a half hour."

"In one-half hour. Keep your shit together."

"Yeah."

"It's shit," said Larry, "but keep it together."

"Jesus Christ." Gary replied, "Shit. Piss. Gawd! Fagan wants to use the phone. Okay. Goodbye," he wailed.
"Goodbye."

It had taken until one a.m. for Judge Ritter to come back to the bench. "The Utah death penalty statute," he read aloud to everyone in the courtroom, "has not been held constitutional by any courts. . .Until doubts are resolved. . .there can be no lawful executions. Consent of the defendant gives no power to the state to execute." It went on, and Judith Wolbach began to breathe again, and happiness went through her, and the terror she usually succeeded in keeping away, went back to its far-off place.

1221
1544

She could have embraced Judge Ritter, for in his resonant old voice, he concluded, "There is too much uncertainty in the law and too much haste to execute the man." God, that voice sounded as good to her as old recordings of Franklin Delano Roosevelt!

Then the judge signed the temporary restraining order for Dabney and Wolbach, and set January 27th, ten days later at 10 a.m., for a hearing on these questions. The Justices of the Utah Supreme Court, the Governor of the State of Utah and the Attorney General were listed by name and told to appear in Court personally at that time so they could show cause why the preliminary injunction should not be maintained.

It was a truly dejected gang that went back to the Attorney General's Office. They were living with a mental picture of the Governor and the Justices of the Utah Supreme Court facing the bench before Ritter. That was an insult. Earl's feelings of fatigue were washed out by anger. It offended his sense of law that Ritter's opinion should accept Dabney's argument when it was based entirely on dissenting opinions. Not one majority ruling!

Back in the office, Earl, Bill Barrett, Bill Evans, and Mike Deamer were trying to decide on the next step.

1545

They had all about concluded the best approach was to file
-- ~~DEFINING IN HALF-SENTENCE~~ --
a Writ of Mandamus in the morning and rush it to Denver.

Then, if they could obtain a delay from Judge Bullock,
the execution could still take place on Monday, although
twelve or fourteen hours late.

Judge Bullock had been in Salt Lake to a social affair.
On his return home, before he went to sleep, he turned on
the radio and heard that Ritter had issued the stay. To
himself, he thought, "That's it." ~~There was an unmarked
sheriff's car parked outside, and Judge Bullock went to
the street and told the fellow, "No need to stay around
now. Might as well go on home."~~

~~The sheriff's office had called earlier that night
to inform Judge Bullock that there might be demonstrations
by people opposed to the execution, and they wanted to
watch his house. The Judge thought, "Well, I don't have
fear for my own safety, but who knows, maybe these groups
might burn a cross on my lawn or something. Spill a liquid
on the porch, or harass my family." He did not anticipate
real violence, but just to protect the property, he thought
he would accept the offer of the sheriff to put a little
surveillance on. After all, he hardly wanted to have his
wife and children disturbed.~~

1546

Of course, he wasn't worried about local people. When you got somebody ready to be executed, you had to recognize that hundreds of thousands of persons all over the country became incensed, and some might be coming into town from all over. They'd be pacifists, and not disposed to real violence, but they did have an interest in demonstrating. So the Judge thought, well, there could be a cross on the lawn.

Now that Judge Ritter issued the stay, however, there was no question of trouble, and Judge Bullock went to sleep thinking there would be an appeal to the United States Circuit Court, and then it would go on to the Supreme Court, and they would go on to debate different issues than the ones being decided now, and through his drowsiness, he told himself, "It is in the stream and I may not live that long to have to worry about the end." Some cases went for 25 years. Judge Bullock fell asleep.

Julia Trosby had gone home from the vigil to get a little rest before returning to the prison for the rest of the night. With the TV turned on for a few minutes, she learned of the stay. Her husband called her right then.

1777 1547

~~from where he was staying at Sanibel in Florida, and said he'd seen her on television earlier in the evening. She had been filmed on the vigil. Then she got a call from an ACLU member who was planning to go out with her to the prison early in the morning, and this woman said, "Did you hear the news? I guess we won't be getting up so early." Julie's understanding was that Judge Ritter's ruling could not be tampered with. She, too, went to sleep.~~

3.

As soon as Gilmore hung up, he rushed to the television set. Stanger thought he was going to put his fist through it. Just a little earlier, a great groan had come up from the inmates in Maximum Security down that long corridor behind them which went from cell-row to row. Stanger had completely forgotten there were all those men back in maximum detention listening to the radio on their earphones. All of a sudden, you could hear the sound. Stanger couldn't tell if they were clapping or cheering, or moaning. It was some deep confused sound, like earth shifting. Ron had never been in an earthquake nor heard an avalanche, but it was the kind of sound he would have expected then, and he could hear, "There's a stay!" being yelled all up

1770
1548

and down the cell-rows. That was when he turned on the television. And at that moment, Gary came back from making a phone call and almost charged into the set.

Cline Campbell had seen Gary get angry once or twice and he took on wrath in a different way than most people. That time Brenda was not allowed to visit him and he threw the coffee cup was not characteristic. Gilmore's anger, Campbell had long ago decided, was too far inside. Other men might slam a wall or grab a book and throw it down, but Gilmore's only physical act would be to sort of grit his teeth and give a low growl. Then he would hold his hands and press them together as if to crush the anger. This night, when the news came through about Ritter, Campbell thought Gary was going to break his hands. He had never seen him nearly so angry as this.

Bob Moody had what he considered an inappropriate leap of the heart. There could have been nothing more impermissible for him to say to his client at that moment than, "Wait a second, excuse me, Gary, but they don't have to kill!" Bob thought of Ron Stanger saying, "Tomorrow morning is going to be a lot better than you thought, because he's going to be alive." But, then Bob saw the look on his face. Gary had prepared himself to receive

10/18

1549

the death sentence by whatever method Moody did not know, by whipping his will into line, or pulling his fears, like leaves, off the private quiver of his thought. No matter how he had done it, the State had just consigned him to Hell again. Something began to collapse in Gary. He was more sullen, more threatening, and had less stature. He went around saying, "I'll hang myself before eight in the morning. I'll be dead. Those shoelaces will be used." Moody had heard of the shoelaces. Stanger told him of an occasion when he and Gary had been alone in Fagan's office for twenty seconds. Fagan had had to go out to pick up a phone for a moment. Call it less than twenty seconds, ten seconds. In that time, Gary had stolen a pair of shoelaces out of Fagan's desk drawer, and was proud of the theft. They kept him under such guard it was not easy to steal anything, but he had held the shoelaces these last two weeks. Now he was talking of using them.

After awhile, Moody and Stanger couldn't take it any more. So they went out of maximum detention and over to the parking lot. There they mingled with the press. A roar went up suddenly and a lot of TV lights started to shine on a particular car just as it was leaving the prison grounds. Stanger and Moody found out that Judge Ritter had driven up to the prison with a Federal Marshall

1777
1550

in order to make certain that his writ staying the execution would be delivered in person to the Warden. From what the press was saying, it seemed Ritter, large and old as he was, had gotten down on the floor of the car as he passed the parking lot in order not to be visible to the press. It was typical of Ritter to deliver the paper himself. He probably expected it to slip between the floorboards, if he didn't.

Now that he was gone, the press was grumbling and laughing. They were furious that they had been cheated of the interview of the night, yet they were roaring at the play that could be made on headlines should Gary not be executed in the morning. "Ritter Delivers the Writ," one said. "Writ Rides with Ritter," said another. There was a funny bad taste in the back of everyone's mouth. They had been drinking and sleeping and waking up in the cold to start the motors of their vans, then drinking some more and falling asleep again. The stay of execution, if it held, would make this night add up to no more than one long night of suffering, not to speak of weeks of further suffering if it dragged on.

Pos
stet

As soon as word had come of the stay, the prison, in effect, had said, Okay, Gary, no more Speed. You couldn't

1778

1551

give that drug to a man who was an ordinary prisoner once more. He might be around for thirty days now. There was Gary full of anger, frustration, and speed, and now he began coming down. With the liquor he had drunk, his voice began to slur.

After awhile, Gary went off by himself. Father Meersman had brought in a tape recorder and Gary had been planning all night to make a tape to give to Nicole after his execution. Stanger couldn't imagine what would be on it after all this, but he hardly had to wonder. Not a half hour after Gary made the tape, he brought it out and sat down close to Ron and said, "I'll let you listen to it."

"Baby, I love you," the tape began, "you're a part of me, and a long time ago, we made on the month of May, vows to each other, to teachers, masters and loved ones of Nicole and Gary, because we've known each other for so long."

"This may be awfully personal," Stanger said to him.
"Just listen to it," said Gary. Then he told Stanger, "You know Nicole and I talked about more personal things together than you could think of. I've discussed every personal thought I've ever had with her." He nodded.

~~1779~~

1552

"I'd like you to have an idea of what it's like when we speak to one another."

So Stanger started listening, but the tape really got very personal and sexy and about the time Gary started to talk about kissing her private parts, it entered the area of the very, very personal and very crude and so when Gary kept saying, "I want you to listen to that," Stanger kept saying, "Gary, you know, it is very personal." "Well, what do you think?" Gary said. Stanger said, "I think, Gary, it's very, very personal."

The voice in this recording was unlike anything Ron had heard coming out of Gary before, a funny voice, fancy and phony and slurred. Every now and then it would be highly enunciated. It was as if each of his personalities took a turn passing through, and Ron thought it was like an actor putting on one mask, taking it off, then putting on another for a new voice. Sometimes Gary would sound pompous, sometimes weak and close to crying. All in all, Stanger wished he didn't have to listen. Whenever Gary walked away, he kept turning the Fast-Forward on the cassette-player so that he would not have to hear it all. Yet, it surprised him. The speech was more eloquent than

1780
1553

he would have expected. Stanger did not know if he could ever see himself addressing anyone he loved in such words.

4.

"In the early morning when your mind is clear, that's the best time to know, but you're in a place like I am, you don't want to be part of ringing bells and hollering, Get up, get up, or we'll come in and take your bedding. I have to listen to the clanging and banging of steel and concrete and it's bullshit and I wake up and I can't, you know, think pure thoughts, these need quiet and relaxation. Hey, Elf, I love you," he said, "I want to suck your little cunt. God fuckin' damn, I was ready to die. Ohhh, the fuckers. Just remember that I love you, and like any foolish man, my head stays sort of funky and all the girls write to me, girls from Honolulu wrote to me, they're fourteen, their names are Tracy and Kelly and they was just talkin' about fuckin', smoking dope, but you know they come from good families, and one of 'em wrote, man, tell me about Nicole, I want to know about her, and I told her man, she's the most beautiful, sexy girl in the world and I kept her naked most of the time 'cause she's such an elf, and a cute little elf, the elf, the elf, my Elf." His voice trailed off, and then he seemed to

~~1781~~

1554

collect himself, and he told Nicole, "She wrote back and she says well, I got red hair and freckles, too. It was just before Christmas and I sent 'em each a hundred dollars, compliments, and you know, as a Christmas gift from Gary and Nicole, they didn't ask for it, they weren't lookin' for nothing,--it's just I like to do things like that, "and he stammered a little and said, "I sent 'em each a Gary Gilmore t-shirt, and I asked 'em to wear it, or whatever, I told 'em they could wear it with nothin' on underneath. A lot of girls write to me and they say different things, and love, they don't know me, if they knew me, they wouldn't love me. They're in love with the mother fucker that's got his name in the paper every day. You know, I flirt with them a little bit, but I always tell them, ah, look, I got a girl, I didn't mean to fucking mislead your ass, but I got the most terrific girl in the world, she's part of me, nobody but you, Nicole, never, ever, ever. . .I love you with all that I am, I give you my heart and my soul." He sighed. "I read things in the paper. . .they say this evil son-of-a-bitch with his hypnotic, charismatic, fucking personality talked this girl into suicide. . .whew, well,. . .I'm not going to tell you what to think. Like you said, you're on that fucking forensic ward, you're watched by the posse, I think most posses, man, are shootin' on you. You got some money,

~~122~~

1555

you're pretty, sexy and you got something about you, baby, that just sticks right out. Well, I know them guys got designs, they're designing motherfuckers, take advantage of opportunities. They see you, see how pretty you are, think I'm going to be dead, they want your money, they want you, there's somethin' about you that anybody would want, you, I hope, God I hope, oh my God, I just fucking hope. . .man, I want you, baby." He started to cry right there. "Oh, fuck," he whispered, "I feel so bad right now, I thought I was going to be dead in a few hours. . . free to join you. . .I don't care if you want to go on living. . .you got children, I'm not telling you. . .to come out and commit suicide, I have such a hard thing to do. . ." Now, he whispered, "I just don't want anybody to fuck you, I want you to be mine, only, only. . .only, mine. Oh, baby, I want to be fucking free of this planet . . .I gave all my money away, a hundred thousand dollars . . .I didn't want to tell you about that, I didn't want to seem like I was bragging, you got more money than I do, I just want to be honest with you, I thought they was going to kill me, the chickenshit sorry cocksuckers. . .fucking sleazy mother fuckers. . ." The words wore down and he was droning into the tape recorder, "Nicole, I don't know what's happening. Maybe we're supposed to live a little longer, listen, I took everything you gave me. . .twenty-five Seconals, ten Dalmane at midnight. I don't have to

explain, next time I took sixty fucking Phenobarbitol. I laid there for twelve hours. I have this pretty strong body, you know, I haven't ruined it with too much drink and smoking cause I've been in this ole prison so long. If they do stay my execution, I'm going to hang myself, fuck 'em in their God damn rosy red asses." He had one of the worst singing voices Stanger had ever heard, never on pitch, and Gary had no idea when he was off. When he thought to croon, he groaned. The groans strangled. When he came near a note, he was sour. Still, he began to sing. "While I draw this fleeting breath, when my eyelids close in bed. . .when I soar to worlds unknown, see Thee on my judgment time, rock of ages, let me hide myself in Thee." He stopped singing. "Oh, man, I told you I talked to Johnny Cash, God damn." Gilmore laughed. "Johnny Cash knows I'm alive, he knows you're alive, he likes us. . .Oh, Nicole. . .I'm not a Charlie Manson type, I'm not swaying you to do this . . . if you want to go on living and raise your children, you're a famous girl, you've got a lot of money and I want to see you get a lot more, too, go ahead, baby, but don't let nobody fuck you." Now, he whispered, "Don't let nobody have you. Baby, don't, you're mine. Discipline, restraint--Maybe a girl, I don't know, shit. . .I was supposed to be executed at seven forty-nine. . .I got this hymnal in front of me,

1029

1557

but I know so many hymns. It's a Catholic hymnal. . .
the priest come out last night and said a Mass, God,
nothing more boring than Mass. . .Nicole. . .you're mine,
God, I feel such power in our love. . .baby, I asked you
to love me with all that you are. I miss you so fucking
bad, I want only you, and I swear to God, I'll have you.
I ain't going to the planet Uranus. I don't care what
I have to go through, the demons I have to fight, no matter
whatever I have to overcome, I'm going to make myself
plain to you. I don't give a shit what I have to do,
torture, suffer, how many lives, you can know if I love
you tenderly and softly, wildly and rowdy, naked, wrapped
around me. . ."

Vern had been watching Gary carefully. After every-
body else began to sleep, Gary turned on the radio so loud
it was practically offensive. Then he lay down and pre-
tended to sleep himself, but it was obvious he couldn't
and a little while later, he got up, shut the radio off,
milled around, glowered, looked like he might throw a punch
at the wall, and then tried once more to sleep.

1783
1558

Evelyn Gray, who was a nice lady, slender, middle-aged lady with eyeglasses and short curled red hair like she went to the beauty parlor regularly went up to Gary now and tried to console him. "Gary," she said, "is there anything I can possibly do for you?" Gary looked up at her and said, "All I ever wanted was a little love." Evelyn Gray came away so touched, she had moved over into tears. "There you go," said Vern to himself. "All I ever wanted was a little love."

Earlier in the evening, when the guards first brought Gary out from his cell to meet the company, they also, since he would not go back to death row, had carried in his belongings. Those fit into several cartons, and a number of plastic bags contained his mail. Now, after trying to rest for half an hour, he got up and said to Vern, "I want to show you some stuff."

They sat there, side by side while Gary went through trinkets and foreign coins he had gathered up. Then he asked Vern to help him in taping a package for Nicole. They started to go through his papers and pick out letters and special items. When done, Gary re-arranged the cartons.

It was as if he was getting ready for a trip. He looked up at one point and said, "Vern, if they don't do it, I'm committing suicide." He said it so quietly and evenly that Vern finally decided it was going to be that day and Gary wouldn't wait too long after the hour was passed. "One way or another," Vern put it to himself, "dead before noon." They went through the papers a last time, and Gary took off the Robin Hood hat that Vern had bought him and put that in the box for Nicole. Then he taped her carton. "I want you to swear that this will all go to her," said Gary, and Vern said, "You know, I'll do what you want."

1287
1560

XXXII THE ABODES OF NIGHT

1.

Even as Earl was standing around the office with Mike Deamer, Bill Barrett, and Bill Evans discussing the next possibilities, Bob Hansen phoned in to tell them that Judge Lewis had agreed to hear an appeal before the scheduled time of the execution. ~~He~~ ^{Lewis} had stipulated, however, that he would not make such a decision by himself, and the hearing would have to be held in front of a three-judge court in Denver. So Hansen was letting the boys know their legal work had to be ready for departure from Salt Lake by 4 AM. Considering the speed of a small plane, it would be a two-hour flight over the mountains, getting them in before dawn at six. Not much time to draft a paper of any quality to submit to the Tenth Circuit Court.

All Earl could feel was fatigue. They would have to write all the appropriate documents in the next couple of

1758
1561

hours, right there in the middle of the night, no secretaries present. Ironically, that was the worst part. They had already researched the law. By divvying up the assignments, each taking that part of the problem they knew best, they could write the papers in the time they had, but who was to type them? ~~Earl, for example, could save three hours of search getting his writ of mandamus ready because he had already written one when Judge Ritter granted the Salt Lake Tribune exclusive interviews with Gilmore back in November. Now he had only to plug in the facts of the current case to all those procedural steps he had already learned. Each one of them in his own way was equally prepared for the legal contingencies. It was the simple absence of secretaries, however, that held them up. Schwendiman and Dorius began to type, awfully slow going, but later, the Salt Lake Sheriff's dispatcher sent over two girls to help out.~~

Other problems appeared. A phone call came in from Gary Gilmore. Of course, they didn't take it. Everybody in the office had the same reaction, which was not to talk to him. The Attorney General's office had already been accused of piggy-backing Gilmore's desire to commit suicide. All they needed now was for it to look like a concerted group effort of the State conferring with the condemned man. Still, Earl was impressed that Gilmore had called. He still felt a certain scepticism and kept expecting that at the last second

~~1787~~

1562

Gilmore would say, "I want to appeal." Having conned all of society one way, he would turn them around at the end. But in the bottom of the night, when Dorius heard of this phone call, he began to believe maybe Gilmore might really want his sentence carried out.

~~As work went on, Earl suffered through one frustration after another at the idea of turning in a document so filled with typographical errors to a court as high as the Tenth Circuit Court of Appeals in Denver. While he had been told to just get anything in, still it was painful to watch him self triple-space something by mistake when he should have been double-spacing. Hellish to have to turn in such a sloppy piece of typewriting to such an honorable court, and so difficult to keep from making too many typos after those many weeks of fourteen and fifteen hour days. They all seemed to be catching up with him tonight.~~

Now, a new anxiety began to weigh on the Assistant Attorney Generals. Since there were no commercial airlines flying to Denver at that hour, Bob Hansen had made arrangements to use a State airplane, and he planned to get them in by six AM, late enough with the execution scheduled for the hour of sunrise today, 7:49. In one hour and fifty minutes, even less, assuming they landed on time, how could

1563

possible

that if did not bring it
OFF by 7:49, couldn'tbring it
OFF legally
that day.

they drive to court, conduct the case, and have the judges come back with a decision in time? A law clerk from their office named Gordon Richards was spending the night out at the prison as a stand-in for Earl, and Dorius called him now. Richards had talked to the warden, and unless Sam Smith got word by 7:15, he could not, repeat, definitely could not, bring the execution off by 7:49. Moreover, Gordon would need a code message, something like "Mickey from West Virginia," to make certain that any phone calls he received from Denver were legitimate. Dorius knowing that Howard Phillips, the Clerk of the Tenth Circuit, lived on Eudora Street in a suburb called Park Hill, gave Richards that as a code word: "Eudora from Park Hill."

- it seemed to
change
the sentence saying the execution
question

~~Now, Dorius began to research whether it was imperative that the execution be conducted at sunrise, as ordered by Judge Bullock. He looked up the appropriate statutes in the Utah code. Sure enough, the two relevant ones were in conflict. 77-36-6 said that the court would declare a day on which the execution was to take place. However, another section, 77-36-15, said that the warden was to execute the judgment at the specified time. Earl had a chestnut on his hands. Day vs. Time.~~

✓
check

~~Oddly, Judge Bullock had set the execution at sunrise~~

1564

~~delayed. That hand moved around the clock like anxiety
circulating in one's chest.~~

2.

In Washington, Al Bronstein, an ACLU lawyer, was called at 5 AM, Eastern Standard Time, which, of course, was three in the morning in Utah. The call had come from Henry Schwartzschild, head of the National Coalition Against the Death Penalty, who now told Bronstein of Bob Hansen's intention to fly to Denver. Schwartzschild had been called himself in the middle of the night and hadn't seen any papers, but he thought the Attorney General would apply for a writ of mandamus against Judge Ritter, and he wanted Bronstein to go to the Supreme Court and be available there in the event the Tenth Circuit did overturn Ritter. So, Bronstein spent about an hour in the last of this night trying to think how he could prepare legal papers without anything before him. He didn't know, nor did Schwartzschild, the name of the case, nor the caption that would be on it, he was without the starting point of who versus whom, and, of course, none of the lawyers in Denver were available. By the time Bronstein thought of them, it was 7:30 Washington time, 5:30 their time, and they were on the way to the Federal Courthouse. Here, in Washington, he tried to call the Supreme Court, which,

[TO DO WHAT?]

hear
an
appeal

1793
1565

by law, technically, was open 24 hours a day, but there was no answer.

Somewhere after four in the morning, Phil Hansen got out of bed and put the radio on, and God, all of a sudden, he could hear this thing on KSL that the Attorney General, and the Judge of the Circuit, and every other principal was going to meet and fly over to Denver, so, of course, he called the Judge, and Ritter said he should have ~~known~~ guessed it, should have known in his dreams they would pull that. At any rate, the more they discussed the situation, the less risky it seemed. As they calculated the time, there wasn't any means by which the Tenth Circuit would be able to get through every step before 7:49 the following morning. It was hardly more than three hours away now. It would take them until 6:30 to get to Denver. Not possible, therefore, to execute him on time. The Tenth Circuit, at worst, would still have to re-sentence him for the future. Tomorrow, thought Phil Hanson, he would begin to put his wheels in motion for that citizens' suit.

3.

Judith Wolbach and Jinks Dabney had not been prepared for the new move. They had gone out into the street from

1284 (15 66)

Judge Ritter's court walking arm in arm, but when they got to the plaza, it was jammed with newsmen and they had to run to Jinks' office to get away. Judith liked press people, but Jinks didn't, had a distaste of getting bogged down in something like that, so they fled to the library to hide. The press was already in his outer office. Then a call came from Jinks Dabney's wife to say that Bob Hansen wanted to notify him that the Attorney General's office was on its way to Denver.

Judith stayed in the library trying to check out procedures in the Tenth Circuit Court while Jinks called the airlines and came back to say there were no commercial flights. Therefore, he couldn't go. The plane Bob Hansen had procured was uninsured, and he would not fly in it. Judy said, "Jinks, you're the one with Circuit experience. It's far better for you to handle this case." Dabney told her nothing was worth it. He wouldn't take that kind of personal risk.

She was quite surprised. She knew a lot of people who had a phobia about light planes. Up in the mountains, counting the names you knew of people who, over the years, got smashed to bits in aircraft, you began to take the view that there were spooks in the Rockies. It was a phobia she had run across before, and normally she could sympathize, but right

~~1567~~ (1567)

now, her problem was that she didn't know enough about the law. She was going to have to stand up and argue all by herself in Tenth Circuit Court. Never had been to Tenth Circuit or any other circuit before. God, it was like leaving her in a snow field. Hey, she felt like yelling, I'm just an ex-anthropology student. This law is too rarefied for me.

She hardly knew the man, but it was crystal clear Jinks was not going to fly in that little plane. "Nothing is worth it," he said quietly.

Before she left, Judy Wolbach grabbed a copy of the Tenth Circuit Rules and a couple of volumes from American Jurisprudence. That was sort of a ground-level legal encyclopedia. She and Jinks did get through on the phone to some ACLU lawyers in Denver who did have considerable experience with the Tenth Circuit, and they promised to meet her at Federal Courthouse. They would argue the technical aspects, and Judy was impressed with ACLU people in Denver. What a gift to have such lawyers ready to pitch in on short notice.

Then the business started of getting to the plane. That turned out to be gross. Hansen called to say he would pick her up and they would drive together to Judge Lewis'

1276 (1568)

house, before all going to the airport. Judy had no desire to fly with the Attorney General's people, but there was no choice. Only plane there was. ~~Mr. Hansen came by, picked her up, and she began to do a slow boil.~~ Instead of travelling toward the airport on the west end of Salt Lake, they had to cut back all the way to the East Bench to get Judge Lewis. This was time Judith could have used for research instead of pooting around all these Ivy League streets, Harvard Avenue and Yale Street and Yale Crest and Michigan Avenue, the Beverly Hills--or was it Cambridge?--of Utah with big homes that were patterned after New England townhouses and mansions on streets with elm trees. She was seeing a lot of empty tree branches in the middle of the night when she could have used the time for research, and she thought it was petty of Hansen to pull a trick like that on her, and almost told him except Hansen would probably say he wanted a witness to the fact that he had no prior conversation with the judge.

Well, in the time it took him to walk up to the judge's door, which was set back quite far on the lawn, and then chat with him in the vestibule before they finally came out and got in the car, why Hansen had time to say anything he wanted. Talk of influencing the man, Hansen and Judge Lewis were into fishing, and how things were going in the office, and Judy was thinking, boy, I'd really like to get a word in edgewise, and tell the judge what's going on, but no, Hansen was speaking

chok

✓

1569

178

4.

Dorius, Barrett, Evans, and Schwendiman had all been on tiptoe waiting for the last pages of the documents to be typed and Xeroxed. At 4 AM, Schwendiman put all the documents in a cardboard box, and they raced through the halls to the exit. Newsmen surrounded them outside, asking for last minute interviews, and the glare of their camera lights made it difficult to see where they were going. A Highway Patrol car was waiting by the south door and they were off. The trooper turned on his flasher, and they took a route to the airport Earl had never seen before, by the way of back streets with which the trooper was familiar, and must have travelled at sixty miles an hour past all those sleeping houses.

On arrival, they were caught up in a roaring of questions from newspaper men, and shouts, noise, and blue-white lights so intense that neither Dorius or Schwendiman could see what they were doing nor where they were going as they followed the others out of the hangar, across the tarmac and into the plane, a twin-engine King-Air which they boarded about 4:20 AM amid another flurry of newsmen and lights. Bob Hansen, Bill Barrett, Bill Evans, Dave Schwendiman, Jack Ford who was a newsman with KSL, Judge Lewis, Judy Wolbach and Earl took off almost immed-

1249

1570

ately, running already at least ten minutes late.

~~from the moment they were airborne, Bob Hansen began this running conversation with the co-pilot. He wanted to know the speed of the plane, the headwinds, the tailwinds, and the anticipated arrival time. Then, he wanted the pilot to check on his radio to see if taxis would be there to meet them. Did the drivers know exactly which part of the airport to go to? Were they up on the best route to the Courthouse? He wasn't leaving anything to chance.~~

~~What made it all the more annoying, so Judy, was the way they were seated.~~ Judge Lewis, in order to avoid getting into, or even hearing conversations with either side, had selected the most uncomfortable spot on the plane, a little jumpseat at the back that was terribly cramped. Then there was the reporter in front of him. Then a long curving seat like a bench that ran from fore to aft so one sat sideways. On it, Judy had been placed between Hansen and Schwendiman, which couldn't help but give her a little claustrophobia. If there was one lawyer she was not mad about in the State of Utah, it was Bob Hansen. Sitting next to him, he had such a strong, righteous, Clark Kent kind of groundwave, a good looking man with a stiff, numb face, dark horn rimmed glasses black hair, business suit, all saying, "I'm a total bureaucrat,

1800

1571

total executive, total politician." That was Judy's kindly view of him.

~~Schwandiman on the other side was all right, she thought, a sweet man, really, whom she had known in law school, but she didn't want to embarrass him now by admitting to any friendship with him. Across the aisle was that eager beaver, Dorius, just as neat as a terrier with a mustache, all peppy and ready to go, and Bill Evans, another lumb in the mold of gung ho. Then Bill Barrett, a tall skinny fellow with glasses and a mustache. God, she was surrounded by Attorney Generals and Assistant Attorney Generals, pure posse, and were they dumb!~~

Poss
cut

Right in front of her, Hansen was asking Dorius if he had done any research on delay of execution, and right in front of her, Dorius replied that he had done the research, this same evening in fact, and the relevant cases were old. They seemed to indicate, however, that an execution was legal even if it took place after the exact hour and minute. Hansen said this information ought to be communicated to Warden Smith. Judith then said to Hansen did he really think it fair to place that heavy a burden with the Warden, "on such dubious grounds."

It had been tense enough in the cockpit before this.

1001

1572

Adversary lawyers should never be thrust so close together before an important hearing, especially in a pukey little plane, but after "dubious grounds," the tension really went up. Hansen did not respond to her directly, yet a little later, he instructed Schwendiman to get to a phone as soon as possible after landing to telephone the warden and Judge Bullock and County Attorney Wootton so that they could arrange for the order of execution to be amended. Then he dictated the language to be used: "at such time later on this date, when the legal impediment shall be removed, or as soon as possible thereafter."

~~He took out a pad and pencil and started to write his words down. She expected Hansen to flinch when she stated that she was recording his instructions verbatim, but he didn't make a move. He didn't have that Clark Kent face for nothing. Mately picked up his ears, and said to Schwendiman to be sure Stanger, Gary Gilmore's attorney, was also asked to stipulate to this amendment.~~

~~Then, they started, literally, to discuss their handling of the case. They weren't making any attempt to keep things secret from her, but instead were going on how, in their opinion, the ACLU would have lousy standing. Judith said to herself, Boy, are they wrong, they are dead wrong. They are bad losers and still arguing the merits of what they just lost on, when what they should be doing is claiming the judge ex-~~

1802

1573

needed his discretion in issuing the order. She felt pretty good about her chances then, thought, I don't know what I'm doing very much, but if they argue the wrong issues, they've got to lose.

Hansen was worrying again about the scheduling of the execution. "As soon as we get there," he repeated to Schwendeman, "I want you on the phone." Judith was thinking: The Utah law says you must go before the court, and it's all being done by telephone. This is really kind of spooky.

In the meantime, she was writing her report on what they were saying and decided to be as nasty as she could, so she turned to them with a smile and said, "What did you say again?" Hansen would reply, "I said to call this person," and gave the name "and that person," and gave the name. She wrote it all down.

~~She~~ ^{# Judith} was feeling awfully hostile. When ~~he~~ ^{Hansen} asked the pilot if the plane was really good enough to keep up its present air speed, she thought: It ought to be, brother. It's more than half Mormon-owned, just like half of downtown.

Mormonism, thought Judy, plain old primitive Christianity. Literal. Literal. ~~She thought of devout Mormons, like her grandparents still wearing undergarments they never took off, not even when they went to bed, or copulated. Once a~~

stet

~~weak, maybe, they dared to expose their skin to the contaminating air. Might just as well be Pharisaees. All the rules and regulations laid down forever.~~

→ You never investigated your relationship on a personal basis to the Lord. No, just the damn letter of the law. Always.

She hated blood atonement. A perfect belief for a desert people, she thought, desperate for survival, like those old Mormons way back. Of course, they had believed in a vengeful, jealous, cruel lord. Of course, they grabbed onto blood atonement. She could hear Brigham Young saying, "There are sins that can be atoned for by an offering on an altar. . . and there are sins that the blood of a lamb, or a calf, or of a turtle dove, cannot remit. They must be atoned for by the blood of a man."

You could satisfy your blood lust, and still believe you were good to the victim. After all, blood atonement remitted the sin. You were giving the fellow a chance to get into the hereafter. Judy decided that this business of living for the hereafter certainly contributed to capital punishment, brutality, and war. Why, Brigham Young with his countless wives pining on the vine had the gall to state that if you ever discovered one of your women in adultery, it would behoove you as a good and Christian thing to hold her on your lap and run a knife through her breast. That way she'd have

1804
1575

her shot at the hereafter. Wouldn't be relegated to the outer darkness. Judy made a noise of disgust in her throat. Primitive Christianity.

5.

In the plane,

~~After Mr. Wollbach stopped asking questions,~~ Earl went over the portions of the oral argument that he would present to the court, and then tried to get a little sleep. It was a dark night and bumpy on the flight, and the tension was not being helped by their strong tailwind. They were slamming through more and more turbulence, and with the engines ~~of the plane~~ now souped up to full thrust, a full load of sound was in the cabin. Dorius began to worry that the craft might be getting unmanageable. It certainly was flying in heavy, erratic fashion. Fifteen or twenty minutes from Denver, they hit some powerful turbulence, and must have dropped several hundred feet in one big jolt. Dorius was looking to the rear when it happened, and saw Judge Lewis fly up in the air; bang his head against the low ceiling back of the jump seat, and then immediately throw the documents he was reading onto the floor so that he could hold onto the walls of the fuselage and keep from banging his head again.

Earl was terrified. It was the most violent caterwauling turbulence he had ever flown through. The thought passed

1800

1576

through his head, boy, if I go down and Gilmore lives--wouldn't that be something!

Earl didn't see God as rewarding people for righteousness or punishing them for misconduct. In fact, he thought it might even be the reverse. Religion didn't make you safer, that way. The current leader of the Mormon Church, Spencer Kimball, had had a life that included one tragedy after another. His mother had died when he was twelve, and he had come down, in later years, with throat cancer, and half his throat had been removed. Yet, he continued to be an orator. Then, he had open heart surgery. A man of impeccable virtue who had passed through one catastrophe after another. It could be that the more righteous you were in your life, the greater was the challenge you could pose for the Adversary. The Adversary worked harder to get at righteous people. So this turbulence, while Earl wouldn't dignify it as a force any greater or more sinister than natural elements, was still cause for some private thoughts. This was the worst plane trip ever.

stel

e

In the back, on the jump seat, sitting literally on a padded cushion over the john, Judge Lewis had a long, rough trip, and after he banged his head, decided to bum a cigarette. In his job, travelling the six-state circuit, he had flown a million miles, but he hadn't been in a prop plane for a

1206

1577

long time. Whether it was that discomfort, or the way the phone had been going constantly in his house since that Athay hearing on Saturday afternoon, calls ringing in at ungodly hours ever since, yet you had to answer, what with the newspapers having the right to know what was going on with the Federal courts, whether he or Mrs. Lewis had had any sleep.

stet

Tonight, he had had to call Breitenstein in Denver, wake him up and tell him at 2 AM that they had to be in court at 6 AM and listen to Breitenstein use a few words that weren't exactly judicial. It all added up, it had all gotten bigger and bigger, and something had to be done or definitely not done about Gilmore. Were these stays beginning to come under the head of cruel and unusual punishment?

e

Judge Lewis broke down. That bump on the head did it. That rollercoastering through typhoon gulch. He called forward for a cigarette, and the pilot replied that he had a whole carton, so why not take a pack, and the judge did, lit his first cigarette in a year, and knew before he lit his second that he had started smoking again, and would be smoking for quite a while. Lighting that cigarette was like going home.

~~Judge Lewis' father had been a judge and his older~~

brother a lawyer, and he had grown up with never a question in his mind that he too would be a lawyer and eventually, all well, a judge. That gave you roots. The law was equal to a feeling for one's own land. So Lewis always felt he understood Ritter to some degree and his quirky love of the law. They had each grown up in the law, after all. In fact, Lewis had studied under Ritter at the University of Utah Law School. So he could certainly understand Ritter's ruling tonight. He wasn't going to find himself highly critical of a judge who thought any execution was outrageous. Such feelings had to come out of your deepest sentiments, and he was no lover of the death sentence himself, and certainly had not wanted the

~~sole responsibility in this kind of emergency.~~ To work against the clock in a capital case had to be the most traumatic thing a judge could get into. You always needed more time to make that horrible decision clear of any feeling that the examination had not been sufficiently thorough, so, in practice, he had always granted the stay in order to give himself time to go into the merits.

This morning, however, they would have to come to grips with the real possibility that it was cruel to make Gilmore go through his execution again and again. Lewis lit his third cigarette. It shifted his thoughts.

Now he was pondering whether an execution today, the

first in many, many years, would be an encouragement to go back to the old blood bath. Would this start a new bang, bang, bang and get rid in a hurry of a lot of men on death row? That could hardly aid any world image of the United States. Lewis was glad two ^{other judges} ~~of his brothers~~ would be in Denver to sit with him on this one.

6.

The plane got there ~~on revised schedule~~, just ten minutes late, ~~and Judy decided the only way to hold up proceedings now would be to fall down the steps on disembarking and break her leg. Then they'd have to stop. Of course, then again, maybe they wouldn't. Anyway, she was too much of a coward. She'd have to be her own agent before she'd break her own leg.~~

~~They taxied to a halt at the Beechcraft Texaco Small Plane Airport. At the parking area, some extremely bright bluish white spotlights were on, and as they stopped, more lights came up, and the atmosphere, Dave Schwendiman noted, became surrealistic. They had departed out of such a scene in Salt Lake. Now, they were back in the scene. They had crossed through a dark sky in a terrible storm and now, they were returned to the insouciance of the day.~~ Some ex-

tremely bright spotlights turned on as the door to the plane came open, bright as the lights in a dream of spotlights. It was as if all the world were flaring up, but the war was taking place on a paved field. Blinded, the lawyers could not see anybody or anything as they headed toward the taxicabs that were waiting with motors running.

At the courthouse, other media-men were swarming over the plaza with movie cameras and microphones. ~~Comedies began to ensue. An anchor man from Salt Lake City, Gandy Gilmour of Channel 2, had gotten in his car and flown to Denver ahead of them. What took so long? Good God!~~ Then Judge Lewis had difficulty obtaining entrance to the building. ~~The security guard only worked nights and had never seen the Chief Justice of the Tenth Circuit before. He wasn't in a rush to let anybody in at this early hour.~~

Finally, the doors were open and the judge pointed to the public elevators and told them to go up to the fourth floor. They literally had a foot race with the media to the courtroom.

About this time, close to 9 AM in Washington, Al Bronstein arrived at the Office of the Clerk of the Supreme Court, Michael Rodak, with a handwritten application he had addressed

1581

to Justice White. Bronstein, in the absence of any definite knowledge of how to go ahead, had captioned his application, "The Honorable Willis W. Ritter vs. the State of Utah," and told Mr. Rodak that because of this peculiar procedural posture, where, to his knowledge, a Court of Appeals in Denver had not yet acted, but time was running short, he wanted to be ready with the paper in case there was need of it. Rodak said, "Fine, we'll wait together," and set up a little temporary office for Bronstein between himself and his Chief Deputy, Francis Lorsen.

1977

1582

XXXIII DAWN

1.

~~Howard Gurney had to leave at 1:00 AM in order to get down to south Utah in time for Monday morning's work, which is why Tony wanted to get back from the prison before midnight and have a little time together. But this night, given the circumstances, she had hardly more than an hour of sleep, and they were up turning on the TV. That was when they heard about Judge Ritter's stay.~~

By the time Tony had driven to the gate of the prison and they allowed her car through, it was on to 5:30 AM, and too late to get in to Gary. All his visitors, she was told, were going to have to leave soon, so they couldn't bring her to Maximum. It was ridiculous. They kept her waiting over an hour in Minimum Security, and then Dick Gray came in and said, "Tony, don't try to get back there. Remember him like you did last night." She shook her head. "I got to say

1813

1583

At the prison, at

~~Schiller didn't know whether they were getting near some kind of release, but this guard had a nice personality. "You want some coffee?" he asked. He was just a guard walking him down, but Schiller was feeling a calmness and politeness, and a serenity he had never experienced in a prison before. It was five minutes to six, and when he turned around, the sky had come up another shade of blue from dark to light. There was a clear light on the eastern horizon and all of the buildings of the prison around him began to feel like a monastery or a church.~~

Schiller

✓ They led him to the visitors' room in Minimum Security, and he was one of the first to enter. As he sat there and thought of the notes he was going to have to take on the execution, he reached inside his pocket to get his pad, the very pad he'd gone out to buy two days before when he decided to write without looking at the paper, and all he had now in his pocket was his checkbook. The only way he could take notes would be on the backs of checks. At that recognition, his bowels flared up like a calf bawling and he almost did it then and there in his pants. Of all the fat ass things to do. There were tears in his eyes from the effort of holding his gut through the spasm. If a reporter ever saw him

1814
1584
now with checks in hand.

There was a bathroom near the visitors' room, and his condition had him going back and forth every five minutes. In addition, he also had a near to overwhelming desire to urinate, but nothing was coming out. He would sit there and the tickle would begin. He would get up and go back to the bathroom. Nothing. It was obvious that everything inside of him was fucked up. He had never felt like this in his life. Inside, everything was going crazy.

2.

Mike Deamer, who had stayed behind in Salt Lake, was holed up in his office with whatever library he could get together in a hurry to research the question of how late past sunrise you could still have a lawful execution. He was getting more and more discouraged to discover he could find nothing. If Deamer was the man to sweat a drop, now was the time, there alone with such a decision to make, and no materials to make it on. At 6:30, however, a phone call came in from Denver, and it was Schwendiman with Hansen's message. They would be able to rely on more than legal opinions if Judge Bullock would rewrite his order.

Noall Wootton lay there through the night, hating the

1585

thought of morning more than ever. Felt like there was no reason for him to witness the shooting, and didn't want to. Days ago he had conferred with Judge Bullock who interpreted the word "invite" in the statute as an offer to attend that could not be refused. Wootton went to another judge who said, "You've got a moral obligation. You started it." Still another judge remarked, "Tell them to go to hell." So, Noall spoke to Warden Smith and said, "I respectfully decline the invitation." Sam Smith replied, "I'd appreciate it very much if you'd be here. The Attorney General says it should be you." That was it. Noall was stuck with the execution.

The hours went by. He didn't sleep, but then he didn't turn on any television or radio either. It was only ~~when~~ ~~Ernest Bullock, his investigator, arrived in the morning to~~ ~~accompany him to the prison~~ that he learned of the stay of execution, and then decided he might as well go out anyway and see what would happen.

~~It was only~~ when he got to Administration ~~that~~ he learned Bob Hansen had gone to Denver. The warden then asked what to do in the event that weren't ready by 7:49. Just then, a call came from the Attorney General's office in Salt Lake. What did they want but Noall Wootton to talk to Judge Bullock and

1586

request that the language in the death warrant be changed.

When Noall called, Judge Bullock had to be brought up to date. He was startled. He had not expected anybody to take an airplane in the middle of the night to go to Denver. Didn't think you could get judges out of bed for things like that (nor out of a bar, for that matter, but put the thought to himself in parentheses). Now Noall was asking if he was ready to change his order of execution because of the sunrise problem. Judge Bullock didn't have the time to ponder it, and felt the old agonizing begin to come back. You don't have to sentence him again, he thought, that decision has already been made. The only question in all this now is the hour. So he said yes, he would change the execution order, and even re-

membered now back in October he had set the time at 8 o'clock in the morning but by December when they had run past the 60 days, the warden had said, "If you ever do this again, can you make it sunrise? Eight o'clock interferes with breakfast and cleaning up in the prison. It sure would help from the standpoint of administration, to have it real early in the morning." Judge Bullock had said, "Sure, any time. Have it at midnight, it's all right with me." Sunrise was just a military thing; there wasn't a good way to execute anybody. You didn't have to be the devoutest Mormon in the world to feel a little uneasy at consigning a man to death and then

et al

1587

~~having to meet him on the other side.~~

~~A little later, one of the deputy sheriffs came with papers that had been prepared at Noall Wootton's direction, and said he'd been asked to bring them over for signature, which the judge did. He hadn't even known there was going to be paperwork on this decision. Just as well there was.~~

About ten of seven, some guards came into the visiting room at Maximum Detention and told Vern and the others they would have to leave now. The warden had sent word to proceed as though the execution was on. So they began to get Gary ready. Of course, until word came from Denver, nobody knew what was what. So it was a funny leave taking. Rough, but unemotional. Kind of scattered. There was every expectation, one way or another, they would see Gary again. Evelyn and Dick Gray had already left, and now Ron and Vern went out through the double gate and into a waiting car. Cline Campbell and Bob Moody were left, and Cline saw new guards standing there with shackles in their hands. They were all dressed in their maroon jackets, two just waiting, and two ready to shackle.

They were real big, and Gilmore turned to them, and said, "Okay, start," and he was calm. He put out his hands and

Campbell started to go to the waiting car. After he passed through the gates, however, he turned around and could see that a scuffle was on.

Moody saw it better. "Look," said Gary to the guards, "I'll walk out. You don't really need those things." The guards were saying, "This is prison procedure. We're following orders." It was a mistake. Gary was mean. He was all the way down off the pills by now. Virtually crashing. It was the wrong time to push. Just before, there had been a tender scene. Gary had shook hands with his regular guards. He had even put his arm around some of them. "You've been great, you know," he said to one, and to another he grinned and stated, "You've been sort of a black bastard, but I like you anyway." The black guard took it with good humor. Here were these tough, rough, young guards and they were almost crying, and then the damned chain gang had to come in, and it looked like a gang rape, as if he had to have one final fight to show the guards he was not going to take it from those motherfuckers ever again. Moody wanted to cry out, "Couldn't you come in and just say, 'okay, Gary, it's time,' and see if he'll walk out like a man. If he doesn't, go to Plan B and the shackles?" Gary struggled. On the other side of the glass, Moody watched, and said to himself, "Dumb dumb gorillas." They kept grabbing ahold of Gary, and he kept saying, "I'm not

1589

ready to go yet." He was looking to pick up some last object, whatever it was, and then they grabbed him and took him through another door, and Moody could no longer see it. Other guards were requesting him to exit, and he passed outside and into the vehicle that would carry him to the appointed place.

As soon as the Attorney General's people were in the courtroom, the panel of three judges came out from their chambers, with Chief Judge David W. Lewis presiding. With him were Judges William E. Doyle and Gene J. Weitzman. Earl glanced at his watch. It was 10:10.

Earl looked toward the bench to protect the basic background. He gave introductions to his associates. One of the judges interrupted. Would he get immediately to the point? Earl nodded, and asked Earl to present the first portion of the case.

Earl started to make his opening comment. At that point, Judge Lewis looked down from the high bench and remarked that no one was present at counsel table for the AG. It was bewildering. No one knew where they were. That left Earl up on the podium by himself in silence.

The AG's must be deliberately attempting to delay the

XXXIV MICKEY FROM WHEELING AND EUDORA FROM PARK HILL

So soon as the Attorney General's people were in the courtroom, the panel of three judges came out from their chambers, with Chief Judge David T. Lewis presiding. With him were Judges William E. Doyle and Gene S. Breitenstein. Earl glanced at his watch. It was ten to seven.

Bob Hansen stood up and began to present the basic background. He gave introductions to his assistants. One of the judges interrupted. Would he get immediately to the merits? Bob nodded, and asked Earl to present the first portion of the case.

Earl started to make his opening comment. At that point, Judge Lewis looked down from the high bench and remarked that no one was present at counsel table for the ACLU. It was bewildering. No one knew where they were. That left Earl up on the podium by himself in silence.

The ACLU must be deliberately attempting to delay the

1591

hearing. Earl was furious. Everybody had to recognize the urgency. He stood there, three minutes, five minutes, six, then seven minutes ticking away. The longer he waited, the angrier he became. Finally, Judy entered the courtroom with the other ACLU attorneys, and he glared at her. In fact, he got into a staring contest with her. He had looked at her in such extreme anger that she stared back in equal fury.

Coming into the building, the first thought in Judy's head had been, where do I meet my people? Everything was up in the air. The case had been divided on the telephone. Now, as soon as she got into the court building, a charming young lady whose name she never caught, introduced herself, and whisked Judy down the hall where four ACLU lawyers, Michael Livingston, Steve Pevar, Bill Reynard, and Wally Rogers, were waiting for her in the attorneys' lounge. They had just barely sat down when Schwendiman came rushing in with the Clerk and said, "They've started. You're wanted in court." Oh, my God, thought Judy, what a way to start out, contempt of court already.

~~Then she tried to walk in without being too obnoxious about it, but everything was pompous. The judges were wearing robes and sitting way up on a bench she'd never seen so high before. It must have been six feet above the floor. Looking~~

022

1592

up to address them, you felt as if you were on your knees.

Then Dorius began to glare at her. At seven o'clock in the morning! Judy could always put on a perpetual glare at that hour. She just said to herself, "I hate and despise him," and glared back as good as she got.

Earl proceeded through his opening statement. "Members of the Court," he said, "we have a severe time problem. Mr. Gilmore is scheduled to be executed at 7:49 AM." The hour now being approximately 7 AM, he would be very brief in his presentation.

Judge Lewis informed him he would have fifteen minutes to offer argument, but Earl didn't take ten. The pressure of time, he felt, was intensifying his argument. He said plaintiffs had commenced their action at 9 PM the evening before, and that was a little late to be concerned about a dramatic abuse of the rights of taxpayers. He felt full of the truth of this remark. "The ACLU," he continued, "is using the device of a taxpayers' action for the purpose of delaying a lawful and constitutional exercise of state power." His language felt attuned to his indignation. No standing, no standing whatsoever!

Judge Ritter, he argued, had grossly abused his judicial

discretion. Nobody had been able to demonstrate that specific federal monies were being spent on this execution. Moreover, Judge Ritter had taken the assumption that the Utah statute was unconstitutional. Yet the constitutionality of this statute, in effect, had been before the United States Supreme Court already in the Bessie Gilmore case. They could have hardly have ruled that Gary Gilmore could waive his right to appeal if they thought the statute defective.

Earl then tried to turn his time over to Bill Barrett to develop their points on why the ACLU had no standing, but the court ~~said that would be arguing in the negative. They~~ wanted to hear from the ACLU first. Steve Pavar from Denver then tried to plead that this case was not properly before the court for mandamus review. Pavar had been on the phone with Jinks Dabney from three in the morning until dawn, and they thought the State of Utah couldn't ask for a writ of mandamus. Ritter had not acted beyond his authority. ~~If Ritter had ordered the Governor of the State of Utah to pick the Capital Building up and move it three blocks south because some little law was being broken, that would fit mandamus~~ But this, on the surface at least, was a bona-fide lawsuit. A motion had been made and granted. Argument had been held. A temporary injunction had been granted. The Attorney General's office never would have dared to bring in a writ of

~~1059~~
1598

mandamus except that it was Willis Ritter. The more they discussed it, the more Pevar and Dabney agreed that they were in good shape here.

When Pevar, however, tried to bring this out, Judge Breitenstein grew incensed. Ooh, Judith couldn't believe the man's face. What a judge. "I know what the law is," he told Pevar, "and I know what the cases are. What do you think we've been doing since 5:30 this morning?" It went like that. Classic. A young lawyer being keelhauled by an old judge. "We don't need you to instruct us on the law, blah, blah, we've heard enough from you, blah, blah. Please get on with the merits of the case." That was how Judith heard it. One testy judge. Pevar kept trying to get back to the point that there was a burden of proof, and you couldn't slap writs of mandamus around for too little, but the court did not accept it. After another few minutes, the ACLU was warned that they were prolonging the case. Another one of their attorneys stood up and said Ms. Wolbach would proceed with her argument.

Judith gave her case. It was a repeat in a great hurry of what Jinks had presented, and she glared at Earl Dorius as she presented her points. He irritated her profoundly this night. It was not because of anything he had done, so much as

because he thought he was right.

When Judith sat down, another member of the ACLU team stood up to speak against the death penalty in general. The justices cut him short. Now the case started rushing faster and faster. Bill Barrett stood up to discuss the issue of standing, but the judges said they were familiar with that. Would the Attorney General's office move ahead? Bill Evans then began to defend the constitutionality of Utah's statute. The judges stopped him, That issue was not, they said, relevant to the case immediately before them. They were becoming more and more abrupt. When one of the ACLU lawyers tried again to discuss capital punishment, the panel cut him off. The judges declared a recess. They would now write their opinion.

Just before he left the bench, however, Judge Lewis spoke to all of them. "Among other people who have rights, Mr. Gilmore has his own. If an error is being made in having the execution go forward, he has brought it upon himself." Then they went out.

Now, Earl Darius turned to Dave Schwendiman and told him to get Gordon Richards on any phone he could find. He was first to identify himself with the code words "Eudora from

Park Hill," and then tell Gordon to wait on the line. Schwend-
iman went out immediately to the Clerk's office, trying all
the while to keep himself under control, to walk rather than
run. No one but a secretary was there, and so, he sat down
at an unoccupied desk and placed a collect call to Richards at
Utah State Prison. After he gave the password to Gordon, he
said that it looked like they were going to prevail and would
get the writs and stays they had come to Denver for. Keeping
the line open, they chatted and Richards told him how cold the
night had been, and how the van that would carry Gilmore, and
the automobile that would transport the witnesses, were ready,
respectively, outside Maximum and Minimum Security. Their
motors were already on.

Waiting for the verdict to come in, Earl felt more and
more certain his side had won. He could even feel, he thought,
a certain degree of anger from this court towards Ritter's de-
cision. So, he felt calm for the first time in the last
several days, and turned to Bob Hansen and started thanking
him for pushing them all to do the job, and getting them to
Denver. As he spoke, he had so much more emotion than he ex-
pected, that he had a momentary panic he might look tearful.
He was certainly thankful to have an Attorney General who
was willing to get this involved in a case that he would

1597
push a staff to their utmost limits.

The judges were back in three minutes. They did not read their verdict. The Clerk of the Court, Howard Phillips, did it in a dry off-hand voice. As he spoke, Judy thought that of all the things they did not do, they didn't have a court reporter, and so there would be no transcript. Awful. Zap! The judges had moved out. Zap! They had moved back. She sat there, listening to the Clerk.

"It is ordered: One, the Writ of Mandamus is granted. The temporary restraining order entered at about 1:05 this morning by the Honorable Willis W. Ritter, Judge of the District Court of the State of Utah, is vacated, set aside, and held for nought. The Honorable Willis W. Ritter is ordered to take no further action in any manner, of any kind, involving Gary Gilmore unless such matter is presented by the duly accredited attorney for Gilmore, or by Gilmore himself. Done at 7:35 AM, January 17th, 1977."

Earl raced out of the courtroom, banged into a couple of newsmen, and screamed at them to get out of his way.

Dave Schwendiman heard a rush in the hallway outside the Clerk's office, and Earl Dorius and Bill Barrett came tearing

1598

in, and Earl seized the phone, and said to Gordon Richards that the writ had been granted and the prison should commence all activity necessary to carry out the execution.

On the other end of the line, Richards sounded extremely tense. He kept asking whether this was final and whether the other side was going to appeal to the Supreme Court. Earl kept repeating in greater detail precisely what had happened, and told Richards to order the execution to commence. Gordon said it would take at least half an hour. Was it essential that it be carried out by sunrise cause they couldn't make it by then. Dorius said the conclusion reached was that the only thing essential was the day, not the time of day. Richards still seemed unsure. He said he would speak to Deamer. Dorius agreed. Check it with Deamer.

Richards, however, still sounded tense. Could the ACLU, he asked, obtain a stay in the next half hour from the U.S. Supreme Court?

They could. It was unlikely but it certainly was possible. Such a message, said Dorius, if it came, would arrive in Utah from the Supreme Court itself. "Mickey from Wheeling, West Virginia" would be calling. Richards repeated that he would call Deamer.

~~1600~~
1600

Then the ACLU attorneys came running into the Clerk's office. They wanted to call the Supreme Court, but Howard Phillips, who had arrived with them, said it was not permitted. Immediately, the ACLU guys laid a finger on Earl. Schwendiman and Dorius had been using the phone, they said, why couldn't they? Phillips replied that he did not know they were using it, and he now asked them to get off. Earl did, promptly. By that time, Phillips felt so unhappy that he could not permit the ACLU people to use his phone that he said he had a pocket full of quarters. They were welcome to use them for a coin phone.

After they were gone, Dorius also went out to the hall and looked through one of the windows in the corridor of the fourth floor. He could see reporters down in the plaza below interviewing Bob Hansen. The sun was coming up in Denver, and Dorius felt a real warm feeling, a sense of gratification that the argument presented that night was the best they could have made under the circumstances. He was fatigued, and he noticed he had a growth of whiskers, and he was sure his eyes were bloodshot. He needed a bath, but he felt good.

Judge Lewis was thinking it had been very unpleasant.

1250

1601

It was probably the most traumatic and emotional few moments he had ever had on the bench. Then he said to himself, "Well, the Supreme Court never got into it. They had every opportunity, but they didn't." There was a reasonable certitude that he and his two brothers of the Bench were right.

XXXX GOING DOWN THE ROAD

11

When Gordon Richards called Decker at 7:35 and said
Hitter's stay of execution had been lifted and they could
go ahead with the execution, Decker had a complete sense of
surprise. He shouted into the phone, "They didn't?" He
was totally shocked. They he recovered and told Richards
to call the warden to start moving.

Decker had never expected it to happen that fast.
Half of him thought it would be pushed off another thirty
days. The rest of him expected it would take place a little
later in the morning. Around ten or eleven there might be
a clear word. Now, still Richards said that the American
Civil Liberties Union was trying an appeal to the United
States Supreme Court. Decker was thinking, however, that the
only legal order in effect now was Judge Sullivan's revised

XXXV

GOING DOWN THE ROAD

1.

When Gordon Richards called Deamer at 7:35 and said Ritter's stay of execution had been lifted and they could go ahead with the execution, Deamer had a complete sense of surprise. He shouted into the phone, "They did!!?" He was totally shocked. Then he recovered and told Richards to tell the warden to start moving.

Deamer had never expected it to happen that fast. Half of him thought it would be pushed off another thirty days. The rest of him assumed it would take place a little later in the morning. Around ten or eleven there might be a clear word. Now, still Richards said that the American Civil Liberties Union was trying an appeal to the United States Supreme Court. Deamer was thinking, however, that the only lawful order in effect now was Judge Bullock's revised

~~1632~~

1603

execution order. He did not see any legal impediment to going ahead. They were not required by law to anticipate a stay of execution from any court, including the Supreme Court. Deamer knew it was going to take half an hour up to an hour to move Gilmore from Maximum Security over to the cannery, and now that Denver had spoken, he saw no reason not to get started.

As soon as he and Richards were finished speaking, therefore, he called the Tenth Circuit, spoke directly to Howard Phillips, and asked him to verify what he had just heard. Phillips read the entire court order to him.

Just then, right in the middle of all this, a UPI reporter, who had Deamer's private number in the office, rang in. He wanted an interview. Deamer told him he would call back later, but the reporter kept asking questions, not rude but persistent enough that Deamer had to answer a couple, and finally, to get off the phone, had to say yes, we're going to execute him. Didn't want to refuse the reporter entirely.

Around 7:55, Gordon Richards called to tell Deamer that Gilmore had now been moved to the execution area and Sam Smith was ready to proceed. What did Deamer advise? Again, Mike was surprised at how fast everything was moving. He

1833
1604

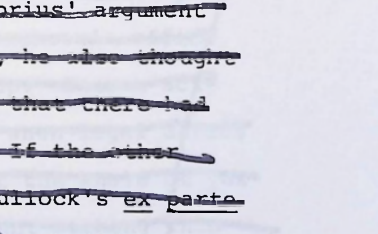
confirmed to Richards that he had heard nothing about any other stays, and told Richards to go ahead and call him as soon as it was over.

Deamer felt it was important that he give the word and take the responsibility. Gordon Richards was only a law clerk at this point, not an attorney, just a third year law student. If he was left in the position of giving legal advice to the prison, especially in something as big as this, it could have a serious effect on Richard's ability to practice law. The State Bar Commission would never forgive a student for rendering legal advice. So Deamer was making it clear that he, Deamer, had the responsibility for saying go ahead, execute Gilmore. Deamer was aware that if some of the ACLU attorneys later came in and filed a civil rights lawsuit against the Attorney General's office, or against any of them, personally, Hansen, Dorius, himself, for carrying out the execution on a wrongful death action, he, Deamer, would be the man who had taken the responsibility. He could, of course, have tried to get in touch with Bob Hansen, but he knew Bob and himself thought very much alike on almost all topics and had very similar philosophical outlooks and was certain Bob would not say anything different than he had. So, he thought, let them sue us. They know where to find us.

Now, he could have called Governor Matheson to ask if

there was any change of mind in that quarter, but he wasn't going to give the Governor that opportunity. For all he knew, the man was home in bed asleep. He didn't want to wake him up and have him lie there early in the morning and think for a while, and possibly get agitated, and suddenly decide, yeah, I'd better do something, and so call the prison. He thought he'd just as soon keep the Governor out of it entirely. For that matter, he'd had some conversations with Matheson a few nights before and the Governor's position, basically, was that he didn't want to get involved. It could be expensive, politically, to stop this execution.

All the while, Deamer was hoping that they would get it all done close to 7:49. Bringing it in near to sunrise would make the problem cleaner. It would certainly remove the possibility that anybody might later object to Judge Bullock changing his order without giving the other side a chance to have their day in court. It was, after all, an ex parte modification of the order. One side, but not both sides, were represented. ~~While Deamer was familiar with Earl Dorius' argument that time in the statute meant day, not minute, he also thought there was a counter argument which would claim that there had to be some degree of specificity to an order. If the other side ever raised the issue and brought Judge Bullock's ex parte order into court, Deamer didn't see any reason to build up~~



~~1830~~

1606

~~the other side's possibilities by sitting on the action.~~
~~Closer to sunrise that Gilmore was executed, the better.~~
~~There would be much less exposure to the counter-argument~~
~~if they missed execution by a few minutes rather than by a~~
~~few hours.~~

All the same, after he told Gordon Richards to go ahead, he realized that he was sitting at his desk with Gary Gilmore's heart beating in his hands and it was a moment of truth, really. Deamer had been in the Army Reserve six years, and had six months of active duty in artillery, but he was never in combat. So he was wondering now if this feeling might be equal to the kind of emotion you could have if you had to kill somebody right in your sights. He had more of a mixed reaction than he expected. It was difficult to stay in his seat after he hung up. It was just quiet and lonely in the office, and he'd worked all through the night, and was dead tired and felt awful grubby. ~~There had been a considerable growth of stubble~~
~~and he became aware now of smelly socks and the odor of his~~
~~feet. He was not only tired but beat. Sundays were a big~~
~~demand on him. He was Number Two man in Bob Hansen's office~~
~~and he was also second counselor to his bishop. Church ac-~~
~~ivities took up 25 to 40 hours a week except when legal duties~~
~~like Gilmore consumed 60 or 70. He had spent the whole of yes-~~
~~terday in church and now all of this last night working into~~

~~Monday dawn and~~ it came over him that even if he was in favor of capital punishment, he had been going through an emotional drain.

Deamer believed we were here on earth to be tried and tested on whether we could live righteously or not. Repentance was the key. It was up to an individual to make restitution in his lifetime for what he'd done wrong, and there were only a couple of violations or crimes that you could not obtain forgiveness for in this life. One was the sin against the Holy Ghost. If you had a vision of the existence of God, and you turned away from it and stated that you didn't have such pure knowledge, if there was a willful denial of faith, such as looking into the sun and saying you saw no light, that would be the most unpardonable sin. Murder was next. Right on the next step down. You could obtain forgiveness for murder, but not in this life. It had to come in the next. To repent, you had to allow your life to be taken. So Deamer didn't feel that in giving the go-ahead he was rendering mute the existence of Gary Gilmore. Rather, he was enabling Gary Gilmore to pass on to a spiritual sphere where at some^{point} down the road of eternity, Gilmore would obtain forgiveness for the sins he had committed.

~~Sitting in his office all alone, contemplating the scrupulousness of his big body that had worked through the night,~~

✓
Chuk

7858

1608

2.

In Washington, at the Supreme Court, Al Bronstein's papers went in to Justice White about 9:40, which was 7:40 in Denver. In ten minutes the papers came back. Justice White had denied this application for a stay. Bronstein was prepared. In a case involving a Circuit Court, you had to appeal first to the Supreme Court Justice who was directly over that court, in this case, White. Now, he resubmitted the same application to Justice Marshall who sent it back to him in a few minutes signed "application denied."

Now, Bronstein asked it be given to Justice Brennan for submission to the entire court. Michael Rodak went out with it, and a minute later, Francis Losen came back and told him that the Supreme Court had been in the robing room, ready to start a regular session in court at 10 o'clock, Washington time, 8 o'clock Denver time, but that they had come back out of the robing room to consider Bronstein's application. That was highly unusual. Then in five minutes Rodak came back and showed Bronstein a short letter which said that the full Supreme Court, through Chief Justice Burger, had denied the stay at 10:03. It was three minutes after eight in Utah, and every last legal resource had now been used up. Nothing could prevent the execution of Gary Gilmore.

1610
1608

XXXVI THE TURKEY SHOOT

1.

In the minimum security room to which Schiller had been escorted by the guards, a lot of people he didn't recognize were ~~coming in~~ ^{arriving}. One by one, they would walk in, try not to look confused, take a folding chair and sit down. Nobody was talking to anyone else. It was not a wake nor did it have the atmosphere of a funeral, but there was an utter and polite calm.

Then Tony Gurney came in. For the first time, Larry saw somebody he could say hello to and he chatted with her. It was not necessarily that he was the man who broke the ice, but at least one conversation had begun, and soon a lot of people began to converse.

After a while, Vern came over and pointed out a man Schiller had already noticed, a rather icy-looking man,

1610

wearing an obvious toupee, who was accompanied by two severe-looking women. Schiller assumed the fellow was a mortician, but Vern said, "That's the doctor who's going to take Gary's eyes out."

Another few minutes went by and Schiller heard somebody say, "Well, they may keep us here three hours."

Then Stanger came into the room and he was furious. He told them Wootton had gone to Judge Bullock and gotten him to delay the order. Now, Gary could be executed at any time during the day. "Would you believe that, Larry?" Schiller could see that Stanger didn't want Gary to be executed, and when Moody came up, Ron maintained that this would be another dry run. The execution was simply not going to come down.

Just then a guard came running in from the back door and said some words over his shoulder, "Overturned," he yelled. "It's on." At that moment, Stanger, for the first time, understood that Gary Gilmore was going to be shot. It went through him like he had just been kicked in the chest. It was an appalling sensation. The strangeness of the reaction went all through him. It was chilling. For the first time in his life, Ron could feel the ends of his

~~1841~~
1611

nerves, and his heart could have been caked in ice. He looked over at Schiller taking notes on the back of some paper and thought, "I'm sure glad he's recording all this, because I can't even move. I don't know if I can walk."

Then they started to move the guests quickly. Stanger knew he must look like he was going to throw up as they took him to the car. There had never been any deaths in his family, except for his older sister who had passed away from cancer and now he felt as close to death as breathing, and wondered if he were going mad, because he would have bet a million Gary Gilmore would never be executed. It had made his job easy. He had never felt any moral dilemma in carrying out Gary's desires. In fact, he couldn't have represented him if he really believed the state would ever execute him. So, now, holding on to the control of his diaphragm, he knew that all the while he had been Gary's criminal lawyer, it had been like a play and he had seen himself as no more important than one more of the people on the stage.

2.

Out in the prison parking lot, the reporters were being awakened. There was a lot of banging on the doors

42

1612

of vans. "The firing squad is coming," someone shouted.

Robert Sam Anson, covering it for New Times was taking notes:

"Once again, everyone is running. A hundred yards away, in Maximum, a police car, followed by a van, has pulled close to the gate. Now Sam Smith strides toward the building, erect, determined, coatless, oblivious to the cold. At 7:47, a small party of people emerges from the Maximum door; Even at this distance, Gilmore can be seen quite distinctly. He is wearing white pants and a black T-shirt. His hands are manacled in front of him, but he is walking to the van unaided. Ritter's decision has been overturned. 'It all looks pretty good,' one of the guards comments. 'All that's left now is the paper work,' his partner answers.

"With the appearance of Gilmore, the reporters become a mob, a herd spooked into stampede. Camera lights tilt crazily up into the air as their bearers struggle to shift them into position. Producers are shouting orders. Directly in front of the prison building, Geraldo Rivera, attired in black leather jacket and jeans and looking cool, the way only Geraldo River can look cool, is shouting into his mike. 'Kill the Rona segment. Get rid of it. Give me air.'

You'll be able to hear the shots. I promise. You'll be able to hear the shots."

When Gary came out of maximum detention with the handcuffs on him and the leg chains, he was walked to the van and seated behind the driver. Meersman was next to him and then Warden Smith came in, and three guards, including the big Indian from Oregon State that Gary had always liked. The van drove slowly with the seven men, the only car moving in all of that quarter mile of prison streets from maximum detention to the cannery.

As soon as they started, Gary reached in with both his manacled hands to a pocket of his pants and took out a folded piece of paper and put it on his knee so that he could look at it. It was a picture of Nicole clipped from a magazine and he had it in his hand and he stared at it. The tension in the van between the seven men, Gilmore, Warden Smith, Meersman, the three guards and the driver was intense and when the driver of the van turned the key to kick up the motor, the radio having been on before, now went on again and everyone jumped. The words of a song went right through the van. The driver immediately reached to turn the radio off, but Gary seemed to recognize the song, because he looked up and said, "Please leave it on."

1614

So they began to drive with music coming out of the radio,
and the words of the song ^{SEEL, F.I} to be the story of the flight of a
white bird. The refrain went,

Una Paloma Blanca, I'm just a bird in the sky.

Una Paloma Blanca, over the mountains I fly.

The driver repeated, "Would you like me to leave the
radio on?" and again Gary said, "Yes."

"It's a new day, it's a new way," said the words,

"And I fly up to the sun."

As the lyric came into the van, and they drove along,
Gary no longer looked at the picture. It was as if the
words had become more important.

"Once I had my share of losing,

"Once they locked me on a chain,

"Yes, they tried to break my power,

"Oh, I still can feel the pain."

No one spoke any longer and the song played through.

"No one can take my freedom away,

"Yes, no one can take my freedom away."

When it was done, they were not yet at the cannery
and they drove in silence and got out one by one, dis-
embarking in the way they had practiced in the early hours

of the morning when these same prison guards had walked through the scene with a model standing in for Gary, and they did the same and brought him into the cannery, very, very smoothly, and Meersman felt that the practice had all paid big dividends.

Gary had written to Nicole:

"You're the little white bird that perched on my shoulder before we were both born again into this life.

She had answered:

Last nite I flew in my dream

like a white bird through the window

came through the nite and the cool wind with a few bright stars in the darkness

and got lost. and woke up.

Crazy huh. Thats the first time that i can remember
Tonite i will tell my soul to fly me to you.

All through the trip from Maximum to the cannery, all the while La Paloma Blanca was playing, Father Meersman did not have any particular feelings as such--at least the way he looked at it, like anything else. You had to proceed from the beginning to the end and know where one would be at every particular stage in order that it all run smoothly. While he did not know about other people, he imagined they

might feel the same as himself, that they, like himself, would just say in their mind that this has to be, "it has to take place just the way we walk through it." That was the uppermost thing in his mind, to be always thinking ahead to the next step. He wanted it so that even getting into the van, there wouldn't be any stumbling, and it was important to make sure that the van would be placed near the door in a situation that was easily accessible, and that when the van reached the cannery, it be as close to the steps as possible. Gary would be wearing shackles, and uppermost in Father Meersman's mind was that he should not have a long, slow, painful walk from the van. In fact, Father Meersman did not take his mind away from the mechanics of these activities until the entire procedure had come to its conclusion and Gilmore was set in that chair. Then, he felt that they were home, and everything would go smoothly.

It had been beautifully planned, he thought. Even to the care with which they had arranged that as the vehicle with Gary Gilmore in it, moved from maximum detention to the cannery, which had to be more than a quarter of a mile, that all the traffic in the prison compound would stop. There would be no moving vehicles while this one vehicle made its way, and so, for the purposes of security, everything

~~1847~~

1617

was protected. No car would be able to cut off the van suddenly, and the authorities had timed this transfer with a stopwatch so they knew as far as you can humanly know how long it would take for the van to go to this corner and then to that corner, and he had occupied himself so intensely in the logic of these steps and in the careful carrying out of each step that came after the preceding step that he did not have a feeling he could really reflect on other than his paramount concern that first of all Gary Gilmore not be upset in any way through this whole thing. It was Gary Gilmore's calm frame of mind he wanted to carry through the procedure smoothly and have finished smoothly, and it was on the rise of such quiet thoughts, his big, black wintertime coat wrapped around him, that Father Meersman arrived with the others at the cannery and mounted the nine or ten wooden steps that would take them into the room of execution.

Noall Wootton left the Warden's office and started to walk over to the cannery. He was taking his time. With luck, he was thinking, it might all be over before he got there, but the Utah County Sheriff saw him, stopped to pick him up, and they drove over together to a door in a warehouse where the Assistant Warden, Leon Hatch, waved Wootton

1748

1618

in. It was a big room with gray cement block walls, and that was all he could see, for he went immediately to the back. Noall was struck with how many people were there. He was only 5'9" and there were a lot of huge guys in front of him. Wootton couldn't see a thing. He was in the back, and that was fine. He didn't want to get in anybody's way.

Out in Denver, Earl Dorius was wandering down the corridor when he noticed Jack Ford of KSL on the telephone. As soon as Jack came out of the booth, Earl inquired what was going on at the prison, and heard that they were proceeding with the execution. In fact, the car carrying Gilmore had reached the cannery where the act would take place.

This was the first time, during what Earl considered the entire ordeal, that he had had a moment to stop and think in a little depth of what he felt about what was soon to take place in Utah. A solemn feeling came over him. It became real for the first time that a man was about to be killed. Now he felt in his own nerves the tension that Gordon Richards had felt when Earl gave him the message over the phone. So his own feelings now gave Earl a clue to what correctional personnel must be feeling out at the

1899

1619

prison. He knew their personalities sufficiently to pass through a very heavy feeling of anguish for the Warden. It would not be easy for his dear friend, Sam Smith, to order the execution of a man.

Earl looked into himself and decided that he, however, really did not feel any sorrow or pity for Gilmore. The impact that man had had on the families of the victims he had killed, even the vastly lesser impact on Earl's own life these last few months of hardly seeing his children, was not conducive to feeling much compassion for the condemned man. He did, however, feel a tremendous sorrow for the Warden.

After Judith Wolbach walked out of the courtroom, she looked down from a big, high window in the hallway at the grey dawn coming in and became aware of an emotional void in herself. The one thing most disturbing to Judith was that she felt so dirty. She hadn't had a chance to go home that night or change her shirt. She just felt sweaty and dirty and tired and really disgusted. It shocked her that she didn't have any other reaction. She just felt disgusted with all that had happened. The bench, she thought, had exhibited despicable behavior, and she felt nasty about Dorius and awfully tired.

~~1650~~
1620

3.

Outside Minimum Security, cars were waiting for the people who had been called out by name and asked to the execution. At the end of a drive that couldn't have been more than a quarter of a mile, Schiller saw a camper backing up against the building they called the cannery and said to himself, "That's the vehicle for the executioners." Then he heard a voice and looked up and was startled. In the press release put out by the prison, it had stated that the air space from 1500 feet above the prison was going to be off limits. Right now, there was a helicopter directly above. Later, Schiller found out that a newspaper had rented it and took pictures of Gilmore being transferred, and were able to get away with it legally, because they were ⁱⁿ a helicopter, not a plane.

Circling the building, his van passed the camper again and behind it was a black canvas structure built out on the loading platform like an extra room. Schiller realized the executioners must be waiting in there.

He saw Vern, Moody and Stanger get out of another car, go up the entrance steps and walk into the cannery,

and when he followed, from the corner of his eye, Schiller could see that Gary was to his right and strapped in a chair. It was the first time he had seen him in person since the middle of December, but what hit him before he even took a true look, was that Gary's part of the room was lit, not brightly like a movie set, but lights were on him and the rest of the room was dark. He was up on a little platform. It was all like a stage.

As Schiller walked forward, the rear view he first obtained of Gary's head changed to a profile, and then Schiller was able to see a little of his face. At that point, Gilmore acknowledged his presence, and Schiller shook his head back. The next thing he noticed was that Gilmore was not strapped tightly into the chair. It was the first detail that really hit him. Everything was loose.

There were straps around his arms and his legs, but they all had a good inch of slack. He could have pulled his hands right out of their restraints. Then, as Schiller continued to move forward, he saw a painted line before him on the floor, and an official said, "Stand behind that," so he wheeled and faced the chair. Now, with Gilmore again on his right, Schiller could see to his left a black blind with slots in it, and he estimated the distance at twenty-

2852
1622

five feet from himself and about the same distance from Gilmore. Then, he took a good look, and Gary's appearance was not powerful.

He looked tired, depleted, thin, older than Schiller had ever seen him, and a little glassy-eyed. He looked like a tired old bird with very bright eyes.

The next thing to impress Schiller was that Gary was still in control. He was talking to everybody, carrying on conversations, not loud enough to hear, but he was not exactly speechless. He was saying something to the guards who were strapping him, to the Warden, and to the priest, maybe there were eight people around him in maroon jackets. Schiller was about to state in his notes that they were prison officials, but that was exactly what he wished to guard against. No journalistic assumptions that might be incorrect. So he would not suppose they were prison officials. Just that they were people in red coats. Then, as his photographer's eye grew accustomed to the scene, he could not quite believe what he studied next. For the seat of execution was just a little old office chair, and behind it was an old filthy mattress backed up by sandbags and the stone wall of the cannery. They had rammed that mattress between the chair and the sandbags,

1623

and the stone wall of the cannery. They had rammed that mattress between the chair and the sandbags, a last minute expedient, no doubt, as if they had decided some time during the night that the sandbags weren't enough and bullets might go through, hit the wall, and ricochet, but the dirty mattress repelled him. He said to himself, my God, for those assassins back of the black, the canvas is neatly stitched around the slots and everything is perfect. Then he realized he was using the word "assassins" instead of executioners.

Still, you could not ignore the contrast between the meticulous preparation of the blind from which they would be shooting, and the seat of execution with its filthy ramshackle backdrop. Even the bindings around Gilmore's arms looked to be made out of cheap webbing.

Ron Stanger's first impression as he had come through the door ahead of Schiller was how many people were in the room. God, the number of spectators. Executions were a spectator sport. It really hit him just before he had his first look at Gary, and he was thankful that Gary did not have the hood on yet. That was a relief to Stanger. Gilmore was still a human being and not a hooded, grotesque thing, and Ron realized how he had been preparing himself

for the shock of seeing Gary with his head concealed in a black bag, but, no, there was Gary staring at the crowd with an odd looking humor in his face, and Stanger knew what he was thinking. "Anybody who knows somebody is going to get an invite to the turkey shoot."

Stanger hadn't thought there would be anybody to speak of, and now, there must be fifty people behind the white line. Any cop or bureaucrat who had a little pull had gotten in. Stanger could hear Bob Moody's words about Sam Smith, so often repeated. "He's a very sincere man. He's just incompetent. Totally incompetent." Here were all these sheriffs and county troopers Stanger had never seen before come right out of the woodwork—how could you be respected in your profession if you weren't there?

Bob Moody couldn't believe that Gary was sitting in place looking so cool, but Moody also felt anger at all the people who had been invited after all the fuss Sam Smith had given them about whether it was five or seven guests. That made him mad. Just the thought of all those needless people let into the room of execution, and the executioners themselves behind the screen talking. You couldn't hear what they were saying, but you could hear them, and it incensed Bob that Ernie Wright, Director of Corrections,

~~1625~~ 1625

was dancing around talking to people, practically galivanting, wearing his big white cowboy hat like a Texas bureaucrat.

Moody had the feeling that the executioners behind the blind were purposely not looking at Gary, but keeping their backs to him and staying in a group, and talking, and would only turn around at the last minute when given the order. Ron Stanger, standing beside Bob Moody, wanted to get up and say to all, "Here, bless your heart, you wouldn't even give this man a piece of pizza before you blow his guts out." That's what he wanted to say, but he didn't dare. It would have been too hysterical, wouldn't even, he would have shouted, let the man have his pizza and a six pack of beer, rather have it wind up in a correctional belly, wouldn't you? and Cline Campbell's thought when he walked into the room was, my goodness, do they sell tickets to this?

Still, Campbell could feel an atmosphere of suppressed fright. Overall, everybody was scared to death. It hung over the execution. It was the fear that someone in an official place was going to forget something. Then there'd be a big political or legal argument. He just contented himself with saying to Gary, "How are you doing?" and then he stood on one side of the chair and Father Meersman stood

~~1857~~
1626

on the other, and Father Meersman got a cup of water and Gilmore took a sip of it as Father Meersman held it to his mouth.

An official came up to Vern and said Gary wanted to speak to him, and Vern walked over into the light that was on Gary, and his nephew looked up at him with those baby-blue eyes of his, and Vern felt like he'd like to pull him out of that chair, just pull him out of that chair and make him free again. Vern felt a great deal of emotion. He didn't want him in that chair, really.

Gary said, "Look, take this watch. I don't want anybody to have it but Nicole." That was the watch he had cracked and taped with the hands set at 7:49 and he handed it to Vern. He must have been holding it in his own hand all this while, then Gary said, "It's important to me, that this gets to her. Will you promise that you give it?" Vern nodded, and Gary said, "I want you to promise you'll see to it that Nicole is taken care of." How in the world Gary figured he could take care of her, Vern didn't know, but Gary had to ask somebody. They shook hands and Gary started to squeeze his hand, right there in the chair as if he could crush Vern's knuckles. He said to Vern, "Come on, I'll give you a go," and Vern said, "Gary, I could pull you right out of that chair if I wanted to."

1157

1627

Gary said, "Would you?"

"If I could," said Vern.

"I'll see you," said Gary, "goodbye," and Vern went back to his place behind the line and thought of the conversation he'd had weeks before when Gary asked him to be a witness, and wanted Ida, as well, and Vern had said, "No, I don't want Ida to see it," and Gary had said, "I want you there, Vern."

"I don't know whether I can make it or not," Vern had said, "I don't think I can." And Gary had said, "Well, I want you there."

"Why?" Vern had asked, "Why do you want me there?"

"Well, Vern," Gary said, "I want to show you. I've already shown you how I live,"--he gave his most mocking smile--"and now I'd like to show you how I can die." And Vern thought all this must be part of what they had then said, because, now, back behind the line, feeling Gary's hand still on his, Vern wanted to tell him, "That was so good, Gary, what you just did."

Bob Moody came next, and he shook hands with Gary. And it was a smaller hand than Bob had expected, but neither cold nor feverishly warm, just a shock, for it was a warm, living hand like any other, and Gary looked at him and said, "Well, Moody, I'm going to leave you my hair. You

need it worse than I do."

Schiller was next. As he walked up, he kept worrying what is the right thing to say. And when he got there, he was dazed by the immensity of it all. It was as if he was saying goodbye to a man who was going to step into a cannon and be fired to the moon or dropped in an iron chamber to the bottom of the sea, a veritable Houdini. He grasped both of Gilmore's hands and it didn't matter if the man was a murderer, he could just as well have been a saint, either at this moment seemed equally beyond Schiller's way of measure--and he said, he heard it come out of him, "I don't know what I'm here for."

Gilmore replied, "You're going to help me escape." Schiller looked at him sitting in the chair and said, "I'll do it the best way that's humanly possible," and was thinking by that, the most honest way, and Gilmore smiled back at him with that very funny laughing smile of his, that thin-lipped smile he showed upon occasion that looked as evil as the smile of a jackal or a hyena, the last facial expression Schiller had to remember of Gilmore, and he walked away not knowing whether he had handled the moment the way it should have been handled, or had gotten nothing and didn't even know if it was a moment to be handled.

Vern had gone first because he was the patriarch, then Bob Moody, but Schiller had wanted to be last. Stanger had thought, "You've got to be kidding, you're even doing it now," and won such maneuvering. Larry went before Ron. When it came Stanger's turn at the end, he couldn't think of anything to say. He just murmured, "Hang in there. Stick with it," and Gary didn't look very tough. The look in his eye showed the effect of all those drugs wearing off. He was trying to be brave. He just said, "Cool," like it wasn't that easy to get the words out, and they shook hands, and Gary clasped his hand and squeezed it real hard, and Stanger put his arm around his shoulder, and Gary moved the hand that was loose in the straps and touched Ron's arm. Stanger kept thinking that Gilmore's hands were skinnier than you'd think they'd be. And they looked in each other's eyes, kind of a final embrace.

As soon as Ron returned to his position behind the line, a prison official came up to ask if he wanted cotton for his ears. Then Ron noticed that everybody was taking cotton, and he stuffed some into his head, and watched Sam Smith walk over to the back of the room where a red telephone was on a chair, and Sam Smith made a phone call and then

~~1840~~

1630

walked back and came up to Gary and started to read a declaration.

Schiller, trying to listen, decided it was some official document. Not the sort, by the sound of it, that he would listen to normally but, in any case, through the cotton, there was Sam Smith going blah, blah, blah. All the while, Gary was not looking at the Warden but rather, leaning in his chair from side to side to be able to stare around the large body of Sam Smith and gaze into the spotlights, practically tipping that chair over, trying to see the faces behind the blind, and catch a glint of their expression.

Then the Warden said, "Do you have anything you'd like to say?" and Gary looked up at the ceiling and made a little noise with his mouth and hesitated, and said, "Let's do it." That was it. The most pronounced amount of courage, Vern decided he'd ever seen, no quaver, no throatiness, cool, right down the line. Gary had looked over at Vern as he spoke.

The way Stanger heard it, it came out like Gary did want to say something good and dignified and clever, but

~~1001~~ 1631

couldn't think of anything profound, the drugs had left him too dead, and so, rather than say nothing, he said it very clear, "Let's do it."

That was about what you'd expect of a man who'd been up for more than 24 hours and had taken everything and been everywhere in the universe over the last eight hours, and now was sober, and coming down, and with a hangover, and looking older than Ron had ever seen him. Ah, he was drained out. Ron could see deep lines in his face for the first time, and Gilmore was white and looked the way he had looked when the lawyers met him after the first suicide attempt, but worse.

Father Meersman walked up to give the last rites, and Noall Wootton braced himself and took a peep between the shoulders of some of the big men in front of him, and remembered Gary when he had come to the Board of Pardons Hearing and very confident that day, like he was holding all the cards, the ace and anything else you might need, and now he didn't have it.

And Schiller looking at the same man, thought he was resigned in his appearance, but with a posture that replaced

~~102~~ 1632

everything else. He had a presence and a position and, finally, a certain authority.

Father Meersman finished giving Gary Gilmore the last rites. As they came forward with the hood, Gilmore said to him, "Dominus Vobiscum," and Father Meersman didn't know how to describe his emotion, because Gary couldn't have said anything that brought back more of an automatic response. This was the greeting Father Meersman had given to the people again and again over the ten years and twenty and thirty since he had become a priest. "Dominus Vobiscum," he would say, and then the response would always come back from the people, "Et cum spiritu tuo." So now, when Gilmore said Dominus Vobiscum, Father Meersman answered like an altar boy, "Et cum spiritu tuo," and through his head went the quick memory of a conversation once with Gilmore when he asked if Gary had ever been an altar boy and Gilmore said, "No," and when Father Meersman asked why not, Gilmore answered, "They never asked me." Now, even as "Et cum spiritu tuo" came out of the priest's mouth, Gary kind of grinned and said, "There will always be a Meersman." "He wants to say," said Father Meersman to himself, "There will always be a priest present at a time like this."

1633

Three or four men in red coats came up and put the hood on Gilmore's head, and nothing was said after that.

There was absolutely nothing said, and they put a chest strap on Gilmore, and a head strap, and Father Meersman began to think of how when the water had been brought, Gilmore had said, "Let the priest," not even finishing the sentence because he could hardly speak, his throat was too dry, and Father Meersman had felt the petrified sound of that voice, that little voice just locked in, and gave him water for the throat that was too dry, and then he wanted another drink, and Gilmore had said, "Let the priest give me the drink."

Now, the doctor was beside him, pinning a white circle on Gilmore's black shirt and then the doctor stepped back. Father Meersman traced the big sign of the cross which was the last act he had to perform. Then, he, too, stepped over the line, and turned around, and looked back at the hooded figure in the chair. The phone was ringing.

Noall Wootton's first reaction was, God, it's just like in the movies, it isn't going to happen. Schiller was taking notes on the checks he'd been careful to remove

~~1634~~
1634

from the checkbook holder, and covered in his palm, and he noted that the hood came down loosely like a square carton over Gary's head. It was not form fitting in any way. You could not have a sense of his features beneath the sack.

Stanger, listening to the phone thought, "It is a final confirmation of some kind," and then Sam Smith hung up the phone and walked back to his place behind the line, and it happened to be next to Schiller. He handed Larry some more cotton and they looked into each other's eyes, and Schiller thought, "When I talk to the press, I'll keep out this detail about the phone. I don't have to give away everything." Then, Schiller didn't know if Sam Smith made a movement with his arm, or didn't, but he felt as if he saw something in the Warden's shoulder move, and Ron and Bob Moody and Cline Campbell heard a countdown begin, and Noall Wootton put his fingers in his ears on top of the cotton, and Gary's body looked calm to Campbell. Cline could not believe the calm he saw in that man, in contrast to the audience. One old friend Campbell had known for years, ruddy in complexion, had become the color of his white hair, and Campbell thought this is serious when Pete looks like a statue, and Campbell noticed that Gilmore was so strong in his desire to die right, that he didn't clench his fist as the count went to one.

1835
1635

Stanger said to himself, "I hope I don't fall down." He had cotton in his ears and his hand up to protect his head somehow. He heard the sound of heavy breathing and a voice saying, "Let's get in line. It's time," and others whispering, "Okay, okay," and then it was quiet. The muzzles of the rifles could be seen in the slits of the blind. He was shocked at how close the rifles were to the victim. They sure didn't want to miss. Then they were being so quiet that your attention was called to it. It got deathly silent. Ron heard these whispers, "One," and "two," and they never got to say, "three" before the guns went, "Bam, Bam, Bam." It was so loud it was terrifying. A muscle from his shoulders down to his knees contracted in Ron's back. Maybe it was some entire school of muscles in a spasm.

Schiller heard three shots, expecting four. Gary's body did not jerk nor the chair move, and Schiller waited for the fourth shot and found out later that two must have come out simultaneously, and Noall Wootton tried to look at Gary at that point, but couldn't see anything from the rear of the crowd and went out the door before anyone else, and straight to this car which was up by Minimum

Security, got in it, drove out. There were reporters interviewing people with microphones, and photographers, but he didn't stop. He didn't want to talk to anybody.

4.

Vern just heard a great big WHAM! and when it happened, Gary never raised his hand. He didn't quiver at all and the blood ran down his shirt but his left hand never moved, and then, after he was shot, his head went forward but the strap held his head up and then the right hand slowly went up and slowly went down as if to say, "That did it, gentlemen," and Schiller thought the movement was as delicate as the fingers of a pianist raising his hand before he puts them down on the keys and then the blood started to flow through the black shirt and came out onto the white pants and started to drop on the floor between Gary's legs, and Schiller realized he was dead. He might not yet be dead, but he had been executed and the smell of gun powder told Schiller he was dead. Then, the lights went down and Schiller listened to the blood drip. He was not certain he could hear it drip, but he felt it, and with that blood, the life in Gilmore's body seemed to lift off him like smoke, and Ron Stanger, feeling dizzy, said to himself, "You're the only one that's going to pass out, and

it will be embarrassing to end on the ground with those people here," and he staggered backwards from the force of the contraction in his back, put his arms out, and grabbed ahold of somebody to steady himself, and turned back to get another look at the body and saw Gilmore's hand moving.

Then Ron closed his eyes and when he opened them, the blood was down in Gary's lap in a pool and running to his feet and covering his tennis shoes, those crazy red, white and blue tennis shoes he had always worn in Maximum Security, and the shoelaces were blooded over.

Ron thought of a time days before when Gary was in Fagan's office for a moment, and the Lieutenant had turned his back to give some instructions to one of his guards. In that ten seconds Fagan was not looking but Stanger through the interviewer's window saw a side of Gilmore. The guy was like a butterfly.

He opened Fagan's desk drawer in that crack of time, took a spoon out, and shoelaces, and a magazine, went through everything in the drawer like a guy leading an orchestra. It was beautiful. Gilmore was a talented thief, after all, and went through every drawer and finally hit the cabinet just as Fagan said, "Yeah, okay, Joe," and by the time Fagan turned around, old Gary

1638

was sitting there calm as a nodding owl, and Stanger on the other side of the glass had his eyes wide open.

Gary had made jokes about the shoelaces after that. They were good enough to hang himself by, he had told them, and now the hand that had done the stealing and moved up in the air, came down as though to point to the blood on the shoelaces, and Bob Moody wanted to expectorate at the sight of Ernie Wright with his cowboy hat, never took that damned hat off, but now had gone up to the body and was looking at it.

A doctor came along with a stethoscope and shook his head as if to say Gilmore wasn't dead yet.

They waited about 20 seconds. Then the doctor went up again, and Father Meersman came up, and Sam Smith came up, and the doctor examined Gary's arm once more with the stethoscope, and turned to Sam and nodded. He was dead. Sam Smith went up and unloosened the chest strap, and slid Gilmore out from underneath the head strap, and looked behind the body at the shot pattern where the holes had come through.

Stanger was furious. The moment after Gilmore was shot, everybody should have been walked out of there, and

not been party to all of this. Even as Sam was examining the body, Gary fell over into Meersman's hands. The padre had to hold his head while Sam was fishing all over the back to find the holes and then blood started coming all over Meersman's hands, and the blood dripped through his fingers, and Vern began to weep. Then Father Meersman wept. An officer finally came around and said to the people standing behind the line, "Time for you to leave." Schiller walked out saying to himself, "What have we accomplished? There aren't going to be less murders."

All the while Father Meersman and Cline Campbell were unbuckling Gilmore's arms and legs, Campbell kept thinking of the importance of the eyes, and said to himself, "Why doesn't somebody move? We've got to save his eyes."

5.

Vern, Bob Moody, Ron Stanger and Larry Schiller got into a car and drove over to the administration building. During that minute, they discussed whether or not to make a press statement outside by the guard's tower, but then they learned that a room had been reserved for press conferences right after the execution.

~~1640~~

1640

Stanger said, "I want to talk to the press. What do you think, Larry?" Schiller replied, "We have no obligation to the Warden. The first person who gets there is the first person the press will talk to," and Stanger said, "Let's beat them to the punch."

Vern said, "Can you answer the questions about the execution, Larry, because I don't want to talk about that."

The press conference was scheduled to be held on the second floor of the main Administration Building, up the stairway, down the corridor past some small offices and into a large conference chamber that looked like a courtroom. It was already immensely congested, as crowded as the Board of Pardons Hearing, same bedlam of media, cameras and crazy white light, people pushing to get in, close to 100 degrees inside. No room to breathe.

Trying to get to that place, they were buffeted on the stairs, and pushed every way. Some TV guy who was working for a national network was holding a couple of cords in front of Bob Moody and got so rude about it, and Bob was so angry by now with the experience, that he just grabbed a male-plug female-plug connection dangling up there

1641

in the air, and yanked them apart, and the cameraman said, "My God, I've lost power, lost power," and pushing past that disaster to the cameraman's nervous system, they reached the room, reached the stage and the crowded press, journalists now helping their passage, and Schiller said to Vern, "You should talk first." Vern sat on a chair to rest his aching leg, and made his statement.

He did not speak for long. "It was very upsetting to me," Vern said, "but he got his wish, he did die. . . and he died in dignity. That's all I have to say."

Bob Moody said, "I think it's a very brutal, cruel kind of a thing, that I would only hope that we could take a good and better look at ourselves, our society and our systems. Thank you."

Ron said, "He was always trying to keep the spirit light because he made the statement he had received a gift, and that gift was he knew he was going to die, and he could make the arrangements and, therefore, he was indeed fortunate. He always said that he looked forward to the time when he could have quiet, when he could meditate, and today, Gary Gilmore has quiet, and he has quiet through eternity."

Schiller said, "I'm not here to express any of my personal feelings, but after Vern has left the room, I'll

~~1272~~ 1642

be more than glad to relate any of the facts that anybody here would like to know. I don't think it would be proper to relay them in Vern's presence, but I will answer your questions then."

There was a pool announcer for the TV stations, and he said, "Leaving the platform now are Ron Stanger and Robert Moody, two attorneys who have helped Gary Gilmore in the last couple of months to get the wish that he said he wanted at that time, that he wanted to die, these men helped to see that he got there. Also leaving, Vern Damico, Gilmore's uncle from Provo, Utah, the man who took Gilmore in after he was paroled from a prison. And now, Lawrence Schiller, a literary agent/filmmaker who's been involved in this case for some time."

Schiller stood up and described the execution as accurately and objectively as he could and mentioned the yellow line and the black hood and the black tee shirt Gary was wearing and the white pants, and when it was all over, and he had given many details in a slow clear voice, he went back with the press to the execution site and couldn't believe what he now saw. His description of the events had been accurate in every way but one. He had gotten the colors wrong. The black cloth of the blind

*Give
Example*

Nov

1643

was not black but blue, the line on the floor was not yellow but white, and the chair was not black, but dark green. He realized that during the execution he had been, not color blind, but altered in his perception of color.

So he left the place of execution a second time, holding a memory of reporters swarming over the chair, and the sandbags and the holes in the mattress, like creatures of some identical species who had come upon their food and would now feed. As he went out the door, he could hear one man explaining to another that steel jacketed bullets had been used so they would go through with no larger hole in the rear than in the front and avoid, thereby, the worst of the mess, and the body jumping from the impact.

1277

1644

XXXVII TELEVISION

1.

~~As Earl stood in the corridor, one of the newsmen came running by and said, "Gary Gilmore is dead." Again, Earl looked out the window and saw other newsmen in the plaza down there in front of the court building and the sun shining in Denver, and people going to work. When he came downstairs to the main lobby, Sandy Gilmour of Channel 2 Television in Salt Lake asked to interview him, and Earl said, "Yes," and Gilmour asked him how he felt being the one to contact the prison to let them know the execution could proceed on Gilmore, and Earl explained he had only had a responsibility to inform them back in Utah that the Tenth Circuit had overruled Judge Ritter. That was all he said. He certainly did not feel like discussing the intricacies of his heart.~~

Feb

~~Then, Earl got together with Bob Hansen and the rest of the staff and they moved out in a taxicab. Judy~~

18-5
1645

Wolbach, they heard, would be travelling home on another plane, and would not accompany them.

2.

Tony was waiting in Minimum Security with Ida, and Dick and Evelyn Gray, and all the other people who had not been invited to the cannery. A guard in a maroon jacket, walked into the room, and said, "Anybody come in to tell you?" Tony said, "No." The man was pale. In fact, he looked white. He was trembling terribly, and he said, "It's over with. Gary's dead."

Ida started to cry. She had held up real well, but now it overflowed. The guards were wonderful then. Several came over to ask if there was anything they could do, and inquire if they had transportation, and Tony told them she was waiting for her Daddy to come back. In awhile, in fact, one of the guards came over and said her father was waiting by the tower where his truck was parked. All the prison officials were wonderful to her on the way out although some of them were still trembling and shaking. It reminded her how just before the execution, they had been very attentive, and had come to see if there was anything

1646

her mother needed, or did she want coffee. It was almost as if they had been in a funeral home, and these were the attendants.

Back in the truck with Ida, waiting for Vern, the parking area seemed massive with cars and people. Reporters clustered around their truck like flies, interviewing her mother through one window and herself through the other, but they finally cut it out when she got foul mouthed. She had had it. By then, she had really had it. She was smoking and so had opened the window, and one of them came over with a microphone and kept asking for an interview. Tony kept shaking her head. She didn't feel like talking, but he had no respect for feeling camera shy, and put the microphone in the window of the truck, and said, "Can I put this here for us?" She told him where to put it. His hands flew over the microphone. Later, her girlfriend told her how on Good Morning, America you could catch where they cut the word 'ass'.

Then she could see Vern with his cane in his hand trying to walk up to them. He looked a sight, his face was so distraught. He was obviously in pain, and she had the feeling his knee was going to go out on him at any moment. So, Tony jumped out of the truck to run to him, and three

reporters grabbed ahold of her arm. So help her, three, and asking for a few words. She grabbed one of the microphones like she was going to say something, and then threw it to the ground and watched it break into a bunch of little pieces, and ran to Vern and told him, "We'll get your truck out later. It's stuck behind others now," and led him to her truck, and got out of the place and brought him to her home in Lehi and gave him coffee, got him settled down, and then took him for breakfast to the Spic and Span Cafe in Provo. About two hours later, she went back with a girlfriend to the prison and delivered her Daddy's truck to him.

The night before Gary was executed, Pete Galivan had been working at the city swimming pool for most of the night. He got home early that morning very tired, and he knelt down and prayed. He asked the Lord to forgive him for some of the harsh feelings he had toward Gary. He didn't want to hate him in any way. He felt concerned about that. He got so concerned he began to cry. Then felt Gary come into the room.

people watching the news on television. They told us they had just heard that Gary Gilmore had been shot and is dead. I remember Jack Ford asking them in disbelief how they knew this, and acted like he did not know anything about it. I turned to Jack and told him he was cruel in leading on the people when in fact we were the ones that had argued the case, but we joked and then boarded the plane and flew back to Utah. The plane trip back was much more relaxing. We talked about subjects other than Gilmore but it seemingly took longer to return home than it took to get to Denver.

When we arrived back in Utah, there was not a single member of the news media at the airport. Salt Lake City seemed extremely quiet. We deplaned and walked to our car alone with no news reporters asking us any questions. It seemed fitting that with the death of Gary Gilmore the publicity also ended.

On the last leg home from the airport, not a block from his house, Earl saw an empty billboard on which had been painted, "Robert Hansen, Mitserite." He didn't know if that was a coincidence, or if it had been put up because Bill Barrett and he lived out there, and somebody in the community wanted to let them know what was thought by certain people of Bob Hansen.

Brenda had gone into the hospital on the tenth of January and her surgery was done on the 11th. Six days later, the execution came right in the middle of still

1649

feeling surgically cut up. The phone calls were tremendous. They never stopped. She couldn't believe how many people kept calling. She was getting prayers on the telephone and hearing them again on the radio station. People in the hospital told her they were praying. Then, Geraldo Rivera called and wanted to do a live TV interview on the spot in her hospital room. Brenda thought, how atrocious. You've got to be kidding.

She couldn't handle it. The night before, on Tony's birthday, the sixteenth, she had one phone call with Gary and knew it was the last time she was ever going to hear his voice. To add to it, she couldn't sleep. They brought her a seconal tablet. It didn't do a lot of good. Two hours later, the nurse was in with a flashlight to see if Brenda was asleep. "How can you sleep with that light in your eyes," Brenda grumbled, so the doctor ordered another one.

Every two hours, they gave her seconal, but she couldn't fall asleep until four in the morning when they came in with a shot. Then, she woke up at 7:30, half crocked from the drugs, but she had to find out if they were going to kill him or not. Switched on the TV and drove everybody in her room crazy, and then she heard he had been granted

1882

1650

a stay, first news she picked up that morning, and Brenda went completely bananas, got hysterical, didn't know if she was happy or sad. Then in a few minutes it was reversed. By then, she didn't know if it was her adrenalin or her heart that was flaming up and down. Just a few more seconds and then it flashed across the screen: GARY GILMORE IS DEAD! The doctor that did the surgery came in to see her a minute or two after this, and stood there patiently waiting for an end to those hysterics, said, "How do you feel today?" She thought, "Oh, you simple son of a bitch, get away from me."

She didn't want anybody near her and the phone was ringing. She asked the nurses to stop all calls. The doctor asked again how she felt and she told him she felt lousy. Then the nurse explained to the doctor what had just happened. He said, "Oh, that's really too bad, but they should have wasted him a long time ago." Sure did it. The doctor said, "What can I do for you, Brenda?" She said, "You can give me my release papers. Give me some prescription for pain, and get your ass out of my room." Then she picked up her pillow and threw it at him. He said, "If you want to get hard about it, I'll suggest that you not be released today." She said, "What in the hell do you care for? I don't like you anyway. If I had

1883
1651

known you were cutting me, I wouldn't have come in." She just didn't like the man.

After he signed the release, she called Johnny. By eleven o'clock she was out of there. They had to sneak her out so she could go home without a lot of reporters bugging her, and she didn't remember a whole lot from that day until three days later.

3.

At the hour of Gilmore's execution, Colleen Jensen was at home in Clearfield getting ready for school. She was now a substitute teacher, and had begun the job just two weeks before. On this day, January 17, she was having her first class with a new group of students beginning the new semester, and while she awakened that morning to believe the execution was stayed, for that was what she heard on the first news, by the time she reached school, she had learned the execution was done. Kids in the class were talking about it as soon as she came through the door. She could hear their whispers about her involvement in it. So, she stood up and gave a little speech to the class.

She did not describe how in the evenings when she sat downstairs, nursing Monica, and rocking her to sleep,

1652

she would show pictures to the baby of her daddy, and tell Monica who he was. In her mind, Colleen would try at such times to speak to Monica out of the stillness of herself and thereby tell the one-year-old that Max was dead, her daddy was dead. For now, talking to the class she merely said that for those who did not know, she would tell them who she was, and what her part in it all had been. Then she added that it was not something they would need to discuss again. She also said she was ready, if they were, to get on with the teaching and the class.

Phil Hanson woke up and watched television in bed that morning just shaking his head and uppercutting himself. As he sat there looking at the TV, he thought, "If I'd had one inkling they were going to pull a midnight ride, (at four thirty in the morning), I would have prepared papers and gone down and had Ritter sign another stay."

Legally, he thought it was all very farfetched. Gilmore had been sentenced to execution, not to starting a faulty death machine that the state had been tinkering with since the penalty was first imposed.

Chick
Need
IA para

1653

Later, she made several statements that morning. It was incredible--it really was an affront--the press had all of a sudden vanished. Shirley found that the most horrifying aspect of the whole thing. It was as if all these reporters were saying, "Well, now that he's blown away, there's no news anymore." God, press corps from all over the country had dominated every place in Salt Lake you could go, and now they were gone. She sat in her office the day of the execution and was not hounded at all.

4

Dennis Boaz had been out in Iowa for a couple of days in December and got into a symposium on a TV program where he expressed his opinions about the need for public execution. While out there, he heard that President Ford might commute Gary's sentence before he retired from office. So, he sent a telegram saying that if capital punishment was going to be applied, it should be applied equally. No executions until there was one law for everyone. He never heard from Ford.

On the day of the execution, he felt a kind of silent sadness and tears came to his eyes. Gary died on January 17,

1887
1654

a day whose number came to six, which was the motherhood of brothers, and, of course, that made him think of Cain and Abel. During the time Dennis had been involved with Gilmore, he had sprouted a red mark above his right brow. It had not been a pimple, but a mark signifying death. He first discovered it toward the end of November. It was round and it was red, but it was not a pimple. It was there nearly two months, and then it faded away after Gary died. Interesting, at any rate. He noticed things like that.



Nicole had found out that Gary was going to be executed today, but she had no idea of the time. In the morning, she was walking back from the ward dining room, when she suddenly felt a great need to lie down on her bed. They started making a big thing of it, but she just walked toward her room. Nobody said anything more. Then she lay there, and tried to think about Gary. She had been dreaming for days of seeing him shot and falling back. She always saw Gary standing up when he got it. But what she saw in her mind now was nothing but those red blocks they gave the patients to put together into a cube.

1655

She'd played with them so often that now when she closed her eyes, she could only see those blocks fitting together. They were in her head at this moment, and she was trying to push them away, when Gary's face suddenly came in to her out of the darkness, came in fast with a look of pain and horror, and he didn't fall back, but fell right up toward her, and it was frightening. Her body flipped around on the bed, her eyes opened, and that was all. She kept trying to feel him again that day, but couldn't. He wasn't near her at all for a few days.

6

When Gaylen died, Bessie thought she would never get over it. But this was going to be worse. On the phone when she called the prison and said goodbye to Gary on this last night, he had said, "Don't cry."

"I'm not going to cry, Gary," she had said, but she wanted to yell out, "Don't die, Gary, don't. Please please don't." Only she knew it would hurt what he was building up--whatever it might take of him to go out there. So she had to be careful. It was a nightmare.

1297
1656

Listening to the clock through the hours Bessie could not keep from thinking, "His nightmare will be over, but mine will never be."

When Mikal got the paper early that morning, it said the execution had been stayed. They turned on "Good Morning, America." Earlier, Bessie had said, "Don't put it on." She didn't want to hear it. If it happened, she didn't want to know about it for hours. She certainly didn't want to hear about it on TV. Yet after Mikal brought in the paper, somebody--was it Frank, Jr., or Mikal, or his girlfriend: she could never remember the fact for fear she would not forgive--one of them said, "It is safe now. There's a stay. We can turn on 'Good Morning, America.'" They did. A voice stated, "Gary Mark Gilmore is dead." It sounded like it came from above. Bessie cried into the sore flesh of her heart.

Maybe half an hour later, Johnny Cash called and gave Mikal his condolences.

By the time Doug Hiblar came by, Bessie had turned bitter. She had the look on her face of a woman who had just been bombed out of her house. Doug had seen such

~~1982~~
1657

looks years ago on Vietnamese women in the TV news at night. "Get out," Bessie said to Hiblar. "You people have killed my son."

"What do you mean, Bessie," stammered Doug, "I didn't even know him."

"You people in Utah killed my son."

He did not say, "I'm from Oregon." She was striking at everything.

"Mountain, you can go to hell," said Bessie to herself. "You're not mine anymore."

Outside, around the court, photographers were gathered with their cameras at the door of Bessie's trailer.

1658

XXXVIII THE REMAINS

1.

On the drive home, Stanger asked, "What are you going to do now?"

"I don't know," said Moody.

"Do you have some kind of appointments?"

"I can't go to the office," Moody said.

Stanger laughed. "Need a default judgment to occupy your afternoon?"

"No," said Moody devoutly, "I couldn't stand it."

They had to talk to somebody who had been a part of it. Even though they were going to go on vacation with their wives for a week or ten days and therefore had to run around like hell these next forty-eight hours in order to leave their affairs in some kind of order, they couldn't go back to the office now. They said, "Let's go to Larry's

place," the Orem Travelodge, but Schiller hadn't come in yet. Instead, they talked to Barry Farrell. It was important to keep talking.

While driving, various flashes had been coming. Stanger had seen Gary's hand rising and falling, and the blood on his pants, and then, on his socks and his shoelaces. Stanger couldn't keep that out of his head. He wanted to extricate such thoughts. Wanted to put his hand right inside his mind and grab the thought and flip it out, but couldn't.

So, they talked to Barry. ~~While they had never gotten along with him that well before, Ron would see how under all his professionalism, Barry was also having an empathetic reaction. While he was maybe not as sad as Ron because he hadn't gone through it directly, Stanger, all the same, felt good about Farrell, and so did Moody.~~

And Farrell, who had ranted at the walls on how these guys, Moody and Stanger, had such a paucity of humanity, ~~that through every exchange in their goddamned interviews they had never been inspired to pursue a question profitably, did not indeed have even the curiosity of a lawyer~~ felt a reason now to temper his outrage. For they were so

1898

1660

moved at Gary's death. They really did understand that somebody has gotten killed, thought Farrell.

Besides, he was eager to hear every detail of the execution and tried to communicate to them how appreciative he was feeling toward Gilmore, especially on hearing these details because Gary had really approached his death with about as much integrity as his intellect could muster. In fact, Farrell couldn't imagine what Gilmore might have done better. Barry had--doubtless--the optimistic conviction that the moment before Gilmore died, maybe he was proud of himself. Maybe he did not have a moment of existential dread preceding that last bullet and Barry hoped this was true because it would relieve him of his own doubts about his own involvement in the last days of Gilmore's life, this whole obscene, niggling business of converting the best thoughts of one's soul and conscience into raising the level of one more rotten fucking question, one more probe into the private parts of a man who was as protected from self revelation as a clamshell from the knowledge of a seagress.

when Schiller came in, they talked over the execution and babbled, and recounted, and asked each other questions, and they sputtered it out of them, just a little. And Stanger pulled forth the Minox camera and handed Schiller

1661

the roll. There were pictures in it Larry would give later to Time and Newsweek of Gary Gilmore sipping--with an elegant cock of his wrist--from a little airline mini-bottle of booze. The set of pictures would become known as The Shot before the Shots.

~~Moody and Stanger went home after awhile and Stanger was thinking that the only event that had ever come close to having this kind of continuous reaction on him, was the day President Kennedy was killed. On arriving at his home, he felt exhausted and immediately went to bed and lay there, but couldn't sleep. When he closed his eyes, he would see the sights and his skin hurt to the touch.~~

det

Once alone, Farrell said to Schiller, "Have you had breakfast?"

"No," said Schiller.

"Any interest?" asked Farrell.

"I'm all diarrhea," said Schiller and thought he might go to sleep.

At that point, Barry looked up and said, "Oh, yes, listen, your mother called."

Schiller hadn't spoken to his mother in three weeks. He picked up the phone and learned that she had seen the press conference on televison after the execution, and was

Stat

1662

1662

~~concerned and wanted to make sure he was all right. She~~
~~didn't like the way he looked.~~

~~He was certainly looking a little worn out, she thought,~~
~~and Schiller assured her that he was still among the living~~
~~and, for Christ's sakes, Mom, lay off, and when the call was~~
~~done, he went upstairs and actually fell asleep, and was~~
awakened a few hours later by a girl from the New York
Times to whom he'd promised to give an interview and now,
he said he wouldn't do it, and Time was calling. Newsweek
was calling. The phone was ringing. They wanted to know
if he had pictures of the execution. They wanted to come
over and interview him and so, Schiller had to go into his
speech about how he would not be a punching bag. "Your
editors are asking for pictures," he said to Newsweek and
to Time, "so, if you want to talk to me, we will have to
make a deal on what you're going to say. You are not going
to call me an entrepreneur. I want to make sure you're
going to call me a journalist," and Schiller really started
to lay down the law. "Two weeks ago," he let them have it,
"you called me an entrepreneur, you called me a promoter.
Now, you come in and you want pictures. You want me to
give you more about the execution. Well, I'm taking offense,"
he said. "We got to lay out a few ground rules."

1878

1663

~~Then, New Times was calling. They had reached Schiller on January 14, and asked him to get Gilmore to draw his self portrait for a cover. Now, they wanted to know if Gary had done it. They had been willing to pay \$500 for the self portrait.~~

~~In a little while, Schiller was giving it to Time and Newsweek again.~~ "You want to write," he said, "about Lenny Bruce and say I hustled interviews from his wife, Honey Bruce. Well, then I also want you to write about Minimata which is a book I'm proud of. It has a lot to say of the evils of mercury poisoning. If you want a picture of Gary Gilmore then also put in a picture of the story that I did on mercury poisoning." He said, "If you're going to slant the story one way, then balance it the other. You want my pictures of Gilmore, better give me this," and he banged it back, and he banged it forth, and he could feel his blood flowing through his veins again, instead of all that shit.

Deseret News

Silent Majority no longer silent

By Ray Boren
Deseret News Staff writer

~~1664~~ 1664

Jan. 17--According to a nationwide Louis Harris survey last week, Americans favored by a margin of 71-19 percent Gilmore's death before a firing squad.

Deseret News

Emotions high before sunrise

By Tamera Smith
Deseret News staff writer

Utah State Prison, Jan. 17--Anticipation, resignation, anger, disappointment, frustration and confusion were emotions that followed close upon each others' heels during the early morning hours today in Gary Mark Gilmore's prison quarters.

At 4:07 p.m., Gilmore's last meal was brought to him in his cell. It consisted of steak, potatoes, breadrolls, butter, peas, cherry pie, coffee and milk. He had only coffee and milk.

Between 8 and 9 p.m., he asked prison staff members to call Radio Station KSOP and request two of his favorite songs--"Valley of Tears" and "Walking in the Footsteps of Your Mind."

Outside the prison, approximately 60 persons carried on a vigil protesting the execution. One man protesting the protest threw an egg at one of the vigil participants.

When news of the stay reached the protesters, they dispersed. The silent watch had been sponsored by the National Council of Churches of Christ in the USA and by the American Civil Liberties Union.

Two switchboard operators spent the night taking calls from all over the world.

From Munich, Germany, one woman called 17 times.

1900

1665

"My husband died in a concentration camp," she said. "The same thing is happening there. America's no better than that" was her repeated contention.

Another woman caller cried, saying she had a dream three weeks ago that Gary should not die.

3
**IDENTIFY JERRY SCOTT AND
REWRITE
~~REWRITE~~ INTO TWO PAGES**

~~Jerry Scott had told Larry how he had been working
THE AUTOPSY, ETC. NOW ON PP. 1900-1907
two jobs a day for so long that he supposed his kids would
recognize him if they passed on the street, but take no
bets.~~

On this day, Schiller had reassigned him from watching over the office to what was now more important. Jerry was to meet up with Gary's body in Salt Lake, and make certain that no kooks or any of the media tried something while the autopsy took place and those organs Gary had donated were being removed.

On the drive from Orem to the hospital, Jerry Scott was thinking he had been the one to take Gary to Utah State Prison from the County Jail and now, he'd probably be the last one to view his remains. That was a large enough coincidence to occupy your mind.

The autopsy room at University of Utah Hospital was good size with two slabs and Jerry, by way of his police

Sketch

1977 1666

The sheet was still on top and it protected Gilmore until it, too, caught on fire, and then as it burned, Jerry Scott could see Gary's face going and the flesh char and disappear, and then he could see the muscle from underneath as it began to burn, and Gilmore's arms which had been folded on his chest came up from the tightening of the muscles and lifted until the fingers of both hands were pointing at the sky. That was the very last recognition Jerry Scott had of him. It was really gruesome. He had a picture of that in his head all day long and there was plenty of time to hold it for Gary had gone to the furnace at 2:30, and the work wasn't done until five when all that was left was a bit of ash and the char of the bones.

4.

A couple friends of Tony Gurney, who also worked as cocktail waitresses at La Cosa in Lehi, came over to the place that same afternoon before the evening shift. They were sitting at the bar. It was a large, dark cocktail lounge with a dance floor and, of course, being Utah, you had to buy a membership in the club in order to get a drink, but that was not too difficult, and La Cosa was

~~1967~~ 1667

lively in the evenings, being one of the few nice places where you could drink and dance between Provo and Salt Lake. For now, however, it was quiet, and only a couple of people were sitting there in the half dark.

One of Tony's friends, named Sally Owen, asked Beth Carter, the bookkeeper, who the three guys might be sitting at the table in the lounge, for they were certainly new, and Beth replied that they were some of Gary's executioners. "How do you know?" asked the waitress. The bookkeeper replied, "Well, I signed them in. They're members of the Sage Club in Salt Lake, and we honor that membership." She didn't remember how the conversation had gotten started, but she had certainly found out. So, when Sally went over to get a pack of cigarettes, and made a point of passing by their table, one of the men said, "Why don't you sit down and talk to us?"

They were all sitting there playing liar's poker with dollar bills and drinking. After she took a seat and they played for a little while, the man got into what they had done that morning. "I bet you think we are blood-thirsty bastards, don't you?" said one of them, and Sally asked, "Why?" And this fellow said, "We were the ones who executed Gary Gilmore this morning."

1668

"Well," said Sally, "it had to be done. That was what Gary wanted." She left it at that. She didn't tell them she knew Tony Gurney and the rest of the family. Then the executioner said, "Do you want to see something sadistic?" He showed her a nylon strap of webbing, and the slug of a bullet, and he said, "This is one of the bullets that killed Gary, and this is one of the straps that was holding his arm," and he asked if she wanted to touch or hold them and she said, "No," but she couldn't help herself. She did it with a slight smirk on her face and then he put them back in his pocket.

Another one at the table now said that he had the hood out in the car. He didn't talk much about it. He merely said he had it. Then he kept trying to change the subject. They were certainly drinking while they talked.

One of these men was short and stocky in his mid-thirties, but he was bald on top, and the other was also in his mid-thirties with light brown hair, around six feet tall and average weight, but he had a real pot belly and he wore glasses. Those were the two who were talking the most about it. The one who didn't talk had dark hair and an average build, but he had a real full beard and a mustache

1971
1689

that was greying and he had tears in his eyes. It was hard for him to talk, and finally, he said if he had known what he was getting in for, he would never have done it. Then, a young married woman named Rene Wales whom Sally knew slightly sat down with them and they all played a lot more liar's poker.

After awhile, the executioners began to talk about their CB's. All three were equipped, but one began to brag about the distance he could get on his. Before you knew it, Rene Wales left with him to go check it out in his pick-up, and before she got back, forty-five minutes had passed. Rene came in with the fellow and both had a look on their faces like they'd been sopping up some of the gravy.

[DESCRIBE SERVICE IN ONE PAGE]

check

1972

1670

XXXVIII BURIAL

1.~~Next morning~~ ^{afternoon,}~~and~~ ^{attended}Next ~~morning~~ Tuesday, January 18, Schiller ~~and~~

~~meeting with Debbie, Lucinda and Barry Farrell about cleaning up the office, and deciding who would bring which piece of equipment. Right in the middle of such housekeeping, a phone call came from Sawyer. There was going to be a memorial service in Spanish Fork that afternoon for Gary. Everybody wanted Larry and Barry to be there.~~

[DESCRIBE SERVICE IN ONE PAGE]

~~When Schiller told the girls, they wanted to go too. Debbie even began to cry. So, of course, that took care of it. The girls were also invited. Then the service had to be moved two or three times in order that the press not know where it was, and they finally held it, not in a church, but at a mortuary in Spanish Fork.~~

check
↓

some of us have. But Gary just couldn't handle them. He had to strike out at something, somebody, and unfortunately, he did. Gary has gone to his death hoping that this will atone for what he has done. He's done this thing to two fine families, but he tells me he has only one life to give, and he wished he had more. And he would give more. He has given special parts of his body to people and to science, hoping that it will help some unfortunate person to be healthy again. I've learned to know Gary. . . the last few months, more than I ever had since I'd known him, I've seen the inner side of Gary, and he is human, tender, and yes, understanding, very capable of love. Gary is on his way to a new life with God, and so, as Gary would say, "You people be cool." In the name of Jesus Christ, Amen.

2.2.

Gary told Vern he wished his ashes to be spread over Spanish Fork. That was where his loving memories were. Vern agreed with Tony's feeling that Gary didn't want to be in an enclosed place again. He had been enclosed all his life. Now he wanted to be on top of the earth and free to roam as the wind blew.

After the service, Stanger asked Larry Schiller to go into the side room where the urn was standing. There a discussion took place. Gary had not only asked for his ashes to be spread from a plane, but he wanted Schiller in the group. It was his request. Schiller said he didn't

want to go. He didn't feel that that was the place for him to be. They told him Vern had been asked, Father Meersman and Cline Campbell, and then there would be Ron Stanger and himself. Finally, Larry agreed. But, he still felt it was wrong. All through the memorial service, he had not felt near to Gilmore or close to all the emotions they had obviously been feeling. Of course, he thought, everybody had come to like the guy, but then nobody wanted to sit around and watch a man die in front of you, waiting for everybody to execute him. Utter insanity. The airplane ride might feel like more of that. Still, it was agreed that next morning, they would all go up in the plane, Schiller spent the rest of the day packing.

On Wednesday, the 19th, there he was out at Provo Airport and they all got into this six-seater, the pilot and Stanger in the front two seats, Vern and Campbell next and Meersman and himself in the rear. It was very simple. Perfect for Mormon people. They had this cardboard container the size of a shoebox, and once they were in the air, Stanger opened it. Gary's ashes had been put into a plastic bag of the sort you sell bread in, a clear, cellophane bag with the printing from the bread company actually on it. That freaked Schiller out. Here, Stanger was holding this bag up next to the window, and it had

1923

1673

colored printing all over it, not festive, but cheap, a 59¢ loaf of bread, cheap. Schiller imagined that the ashes would be black and somber and kind of dignified, but they were gray and white and had bits of bone in them, just a seedy, used up color.

Gary had specified how he wanted those ashes deposited. He had named a number of places in Spanish Fork and Springville and Provo going up into the mountains and coming down over the towns, and so Stanger had to strew the ashes over four or five takes. He never even put his hand out the window, just tucked the opening of the bag next to where he cracked the vent, and then the pilot would bank the plane to put Stanger on the down side, and the air would suck out the ashes. It was a slow business and not very dramatic, ~~and in the back seat Meersman started to talk to Schiller about what he had said at the Memorial Service.~~ It was obvious to Schiller that Meersman was coming on fucking strong and probably wanted to prove that Gary had returned to the church on his dying day, but it didn't ring right to Schiller. He knew that Gary hated the name Mark, and had crossed it out in his contracts with Schiller. Of course, he could have been AC-DC about his middle name, but Schiller was only buying Meersman's story with a bag of salt.

Set

17-0
1674

Schiller

After they spread the ashes and came down, ~~Barry~~
~~was interviewed by~~
~~Farrell was waiting at the airport with a gift. It was~~

a girl from the New York Times ~~who~~ Schiller certainly
~~did not want to be interviewed by~~. He had, however, re-
glected to inform Farrell of that little fact. Therefore,
right after sending ashes in the canyons and the mountains,
strewing them over Provo and Spanish Fork, here was Barry
Farrell walking up with this girl from the New York Times.
By the look on her face, it was obvious Barry had told her
what they were doing. So Schiller was stuck against the
wall, and did a horrible interview and the story got out.
~~No longer a secret where Gilmore's ashes ended.~~

Later that day, he also did an interview for Time
and one for Newsweek and took a jet back to LA. Both
magazines had agreed to his terms about the way he wished
to be treated. In fact, he had a grip on both, ^{Newsweek} at one
point in November, had been in collaboration with Schiller
for a day or two, and he told them, if they didn't mention
that in their article, he was going to tell Time magazine.
In turn, he told Time that if they didn't agree to his
terms for a balanced portrait, he would inform Newsweek
that Time had given him the Minox to take the photographs

1675

on execution night. Thereby, he had both of them giving him fair and decent treatment. Not preferred treatment, just fair and decent. Just put Minimata next to Susan Atkins--that was all he ever asked for.

IN THE DEPT. OF THE STATE

1.

Time

After Gilmore, Who's Next to Die?

He was the first prisoner to be executed in the U.S. since 1947. What the warden called "the show" took just 18 minutes. Hearing the fusillade, prisoners in three nearby cellblocks screamed spontaneously.

Salt Lake Tribune

Judicial Homicide

ACLU Calls Prison Murder Acquittal

January 18, 1977--Harry Schwarzschild, New York coordinator of the National Coalition Against the Death Penalty and director of the Capital Punishment Project of the American Civil Liberties Union, had only harsh words about the execution and trial officials.

"This was not a suicide of Mr. Gilmore but a judicial homicide with Mr. Rosen as an accomplice," Mr. Schwarzschild said at a Salt Lake Hilton Hotel press conference.

1676

XXXX IN THE EBB OF THE NEWS

1.

Time

After Gilmore, Who's Next to Die?

He was the first prisoner to be executed in the U.S. since 1967. What the warden called "the event" took just 18 minutes. Hearing the fusillade, prisoners in three nearby cellblocks screamed obscenities.

Salt Lake Tribune

Judicial Homicide

ACLU Calls Hansen Murder Accomplice

January 18, 1977--Henry Schwarzschild, New York Coordinator of the National Coalition Against the Death Penalty and director of the Capital Punishment Project of the American Civil Liberties Union, had only harsh words about the execution and Utah officials.

"This was not a suicide of Mr. Gilmore but a judicial homicide with Mr. Hansen as an accomplice," Mr. Schwarzschild said at a Salt Lake Hilton Hotel press conference.

1027

1677

"We do not mourn for Gary Gilmore," he said. "We do mourn for this nation and the State of Utah."

~~The speed with which "the state attorney general raced to the 10th Circuit bespeaks nothing but bloodlust," Mr. Schwarzschild added. He also criticized the actions of 10th Circuit Court of Appeals.~~

"I am appalled at such a performance in this society which calls itself civilized," the capital punishment opponent said.

"I could not gauge the depth of callousness and human depravity that brought about this spectacle," he said.

Mr. Schwarzschild said his words were harsh but added the situation called for a strident tone. "Let Mr. Hansen make of them what he will."

Salt Lake Tribune

Justice Has Been Served, Hansen Says of Execution

By Dave Jonsson
Tribune Staff Writer

January 17, 1977--Utah Atty. Gen. Robert B. Hansen, who personally argued in court against stays of execution of Gary Mark Gilmore, said Monday after the convict's death, "justice has been served."

"Capital punishment is symbolic of society's determination to enforce all of its laws. If we don't enforce the severest of our laws, the criminal mind might conclude (punishments of) other laws won't be imposed against them," Mr. Hansen said.

"No death can be elevating, and there is much sadness when anyone dies," added Mr. Hansen, his face drawn after 30 hours without sleep, "but I am infinitely more sorrowful about the two victims' families than the fact Mr. Gilmore is no longer alive."

~~Hansen's story was printed right next to a big photo graph of him in the Salt Lake Tribune. Next to that story, however, was an adjoining headline that went "ACLU Calls Hansen Murder Accomplice."~~

~~Bob Hansen was used to seeing pretty savage things said about himself, but "Judicial Homicide" offended him. He debated for a long time whether to sue the ACLU guy. Since he was a public figure, he knew he would have to show a lot of malice. While Schwarzschild's statement, from Hansen's point of view, was just reeking with malice, the difficulty was that Schwarzschild could hardly be responsible for the headline, and that had been the most blatant part of the story. It was a problem, and Hansen was very much offended.~~

One day, shortly after the execution, Judy Wolbach went over to the State Capitol Building to tell Earl Dorius

1929

1679

what she thought of him. It was not a very well advised thing to do, but she sat down in his office and asked him what he thought of himself. Earl said, "Judy, you've got to understand that while you may think everything we did was terrible, we believed in our turn, that everything you did was completely unfair. We'll have to work together on other cases in the future, so I'd be happy if you could stay in some control of your feelings." He may not have used exactly that language, but she heard him saying something of that order. She could hardly listen. "Earl," she answered, "tell me. You have little children. Doesn't it disturb you for them to know that you were, as it were, a helpmate to this execution?" He nodded. It did disturb him, he told her. One of the children had heard some comments from a friend that he and Attorney General Hansen had been involved in a cold blooded murder and he had to explain it all to them.

~~From his side of the desk, Earl felt Judy was entitled to come up and confront him since she was taking it that personally. It didn't bother him altogether. In fact, he was glad she had done it. After a big, emotional case such as this, attorneys went their separate ways. He didn't like it when they ran into each other on the street and could only glare back and forth. In fact, he thought it~~

1930

1690

was big of Judith to have the courage to come up, even if it was just to get it all off her chest. He preferred that to going on and on over the years with a feud.

On the other hand, it would not have been easy for him to get on the phone and say, "Nice job. I respect your professionalism." He tried to do that with other attorneys in a big case. After the news media hearing in Denver, he hadn't hesitated to tell Ned Holbrook that he thought he did a superb job. But, he didn't know Judy, in fact had first heard her name when she wrote a letter to the office threatening to sue them on a wrongful death action by way of Melvin Belli. So, he'd asked around about her and people who had known her in law school said, "Well, she was kind of cause oriented." Now, he thought she was arguing in much the way she had in court, on an emotional basis, and that, in his opinion, didn't work so well.

After she left the office, ~~it seemed to Judy that she expected to feel a lot of pain from the execution, but it hadn't happened. She might only have been experiencing the wrath that consumes. It was certain that she must have been reacting to some things deeply or she would not have gone to see Earl Darius, but she could not say she had~~

~~a direct emotional reaction to Gilmore's death. She wondered~~
~~if part of it had to do with the awful feeling she'd had~~
~~from time to time that she was colliding with Gilmore's~~
~~nights. Walking down the stairs, she imbibed the true~~
~~spirit of the staircase and~~ remembered what she should
 have said, which was to tell Dorius that Judge Ritter, who
 had been the respondent after all in Denver, was not even
 served with a paper. There was supposed to be a two day
 mandatory period on a mandamus proceeding, and that had
 been disregarded entirely. Now she remembered what
 Richard Giauque had remarked, and it would have been perfect
 to hand out to Earl. "Obviously, a lawyer can understand
 people trying to cross the Rocky Mountains in the middle
 of the night to save somebody's life, but to make sure
 you shoot him on the given second of the clock seems a
 little bizarre to me."

Salt Lake Tribune

Utah Execution: We Came Killing

January 20, 1977--We didn't tell you how we
 crawled around the sandbags in front of the
 dead man's chair, the sandbags still fresh
 with his blood. We didn't tell you how we
 hurried into the firing squad's canvas booth,
 and how we squinted out of the vertical slits
 where the rifles had been, squinted out at
 the chair and made ourselves a gift of the same
 view the executioners had viewed.

etef

We didn't tell you how we touched everything, touched every possible surface in the death shed. We didn't tell you of the looks on the faces of the prison guards, who watched in amazement as we went about our doings with such eagerness, such lust. We didn't tell you what we did to the death chair itself-- the chair with the bullet holes in its leather back. We didn't tell you that, did we? Didn't tell you how we inserted our fingers into the holes, and rubbed our fingers around, feeling for ourselves, how deep and wide those death holes were. Feeling it all.

stet

3.

Brenda was completely exhausted. Back in her own home, her own bed, people came to see her, but she could hardly remember who they were. She talked, but she couldn't remember what she said. Three days got to be like one. She had caught fever or some damn thing, and started vomiting pretty heavy. Only thing she could think was, "I've got to get cleaned up and go to that funeral." Made it as far as the bathroom. She didn't know that the funeral had passed two days before she came out of it. She really was shattered to find out. Hadn't gotten to be with Gary at his last service. She felt like she had let him down.

A few nights after the execution, Nicole got into a fight. As evening came on, she had felt again a powerful

~~1033~~

1683

desire to lie down. It wasn't bedtime yet, but she lay on her bed, and four or five patients came with an aide to drag her off. When they touched her, Nicole just started swinging.

She almost busted somebody's nose, and at one point she came near to laying out all five girls. It probably lasted over three minutes. That was a long time to fight five girls. They got her stretched out at last, flat on her back, but she kept getting her feet loose and kicking them, so they turned her over on her stomach and lay on top of her for, she could swear, twenty fucking minutes on that cold floor, with each of them sitting on an arm or a leg. All of a sudden, she realized how funny it was, and she started laughing. And laughed as if her heart would burst.

The people holding her weren't laughing, of course. Yet, she felt as if she was not laughing alone. Somebody else was laughing with her. Then she knew Gary was there. He was just about saying in her ear, Hey, cunt, now you know what it's like.

Afterward, they locked her up for a few days. During that time, she'd often bust out laughing in her cell. She

1024
1689

still wasn't laughing alone.

All this time, she never cried about Gary. It wasn't necessary. He was not pitying himself, and she didn't want to regret his leaving any place he had wanted to depart from that bad. She kept hoping he would feel close to her when she got out of the nut-house, and she thought maybe she would still take her life, but she did not really know. It was hard to tell.

4.

~~Stang and Moody were booked on a Gulf cruise that left New Orleans on Saturday, but they were in a hurry to get away and left for Louisiana with their wives by Thursday afternoon. They had dinner at six, and come eight were so physically exhausted they went back to their motels and didn't wake until twelve hours later.~~

Stel

They heard a lot of comments about the case. On the following night, sitting in a restaurant, the gal at the next table had a few drinks and got a touch obstreperous. Her husband said with a grin, "Just leave her alone, and she'll go home." He was joking, but she drew herself up like a true person of substance and said, "I want you to know that I am a law student, and I have been doing

1938
1685

research on an important case, the Gary Gilmore case. Have you ever heard about that?"

clt

Bob's wife, Katherine, couldn't hold it, and said, "These are Gilmore's lawyers," It was worth losing your pants in court to see the look on that gal's face. She had been so set to tell them about her expertise.

Over the next few days, Earl Dorius did a burn about Gilmore's ashes being strewn. Under the public health statutes, it was illegal, and could have been prevented if he'd known in advance. Then he found out the prison had heard, but did not contact him. Now, he had to tell himself to forget all that. It was not the sort of thing you could pursue, and besides he was feeling pretty tired. Bob Hansen told him to take some of the compensated time he'd accumulated after working almost every night since November until nine or ten.

~~Earl just wanted a quick vacation, no place special~~
no long time, so he drove his wife and family down to Orem where they had relatives. Just off the freeway, he saw a Travelodge, and walked in to book a room. As the girl started to write up the registration blank, the phone rang and Earl heard her say, "Don't worry, Mr. Damico." When she hung up, Earl said, "What does Vern Damico have

fel

1686

1686

~~Society came to the office and interviewed everybody for
one of their volumes on the State's history. They never
came, however, to Earl. He was out of the office that
day. It turned out pretty much like all of the Gilmore
thing he always seemed to be away from the main action
when the media or the historians were there. The key
thing to hold onto, he told himself, was to be a good
team player and stay glad it got done.~~

Sketch

5.

The Salt Lake Tribune
Order Probe of Gilmore Photo
By George A. Sorensen
Tribune Suburban Editor
January 28, 1977--The Utah State Board of
Corrections Thursday ordered an investiga-
tion how contraband was carried into Gary
Mark Gilmore only hours before he was exe-
cuted on Jan. 17.
The order came after board members viewed
copies of Time and Newsweek magazines, which
carried pictures of Gilmore drinking from a
minibottle of whisky shortly before the
execution.

Sketch

The Salt Lake Tribune
Gilmore's Execution Cost State \$60,000
By George A. Sorensen
Tribune Suburban Editor

January 30--It cost the taxpayers of Utah more than \$60,000 to bring convicted murderer Gary Mark Gilmore to trial and keep him alive through two suicide attempts so that he could be executed.

With the exception of the actual trial costs, estimated by Utah County Attorney Noall T. Wootton at \$15,000 to \$20,000, all other figures are based upon extra help or overtime.

During the 102 days Gilmore spent in Utah State Prison, taxpayers shelled out \$18,330. This figure includes bill of \$3,864.62 received from the University Medical Center for treatment after his two suicide attempts, said Warden Samuel W. Smith.

Also included is the \$725 paid to the firing squad. Each rifleman received \$100 and the leader \$125.

More than 200 of the prison's total staff of 320 were called back at 3 a.m. on the morning of the execution.

Utah Attorney General Robert B. Hansen estimates it cost \$19,000 for the extra work of his deputies and secretaries. Some put in as much as 30 hours straight during the last day and night.

6

One of the hardest things for Tony Gurney was to go up to the University of Utah Hospital for Gary's clothes. They had been sitting out in a storage room for a few days and finally turned so rank, they had to freeze them.

Tony was given this icy bundle, and put it in the trunk of her car and on the way home, it thawed out. By the

1688

time she got back, she close to being late for work, but there was no question. She had to get them in the washing machine, right away.

Then Vern came over that night to pick the stuff up, and darn if she hadn't failed to notice that Gary's religious medals were still in the pants' pocket and still caked with blood. The odor had all the stink of mortal loss.

6.

Over the weeks, hate mail began to slow down and Shirley Pedler came back into some kind of daily routine which was a relief. All the same, it felt peculiar for a while to come back to the ACLU office and not have the outside halls jammed. So much of her emotional energy, she decided, was still attached to Gary Gilmore, that the normal world seemed bizarre and very small. It was hard for her to pay attention.

She felt as if Gilmore was not only dead, but she was in some kind of separate reality herself. Once in a while, like a mist passing across the sky, she would feel a strange communion with him, as if some thought had passed

check to

1941

1689

XLI TO KISS AND TELL

1.

*Could
cut
Chicago*

In Chicago to finish the Playboy interview, Schiller and Farrell worked around the clock and didn't finish until 5 o'clock Sunday evening, the 23rd, one week to the hour since Schiller left the Travelodge motel to drive to the prison for the beginning of the execution night. Playboy never saw one word of the interview until they turned it in. They thought they were handing over 19,000 words, and believed that would be comfortable, since Playboy had contracted to print 15, but when a word count came back later that evening, they were up to 24-plus. Art Kretchmer, the editor, who was tall and handsome like Abe Lincoln--like a young Jewish Abe Lincoln, Schiller modified it--came out and said, "I don't know where to cut a word. I've never read anything that I was afraid to edit, but I'd be scared to cut a word out of this." They counted it again, 25,000 words. Schiller said, "Look, this has been done under the heat of battle. Sometimes you ruin some-

~~1973~~

1690

~~in Hugh Hefner's famous indoor swimming pool at the mansion where you could watch the swimmers from a glass wall in the underground bar. She had not come to Chicago for nothing. So Kretschmer opened up the mansion. Nobody was in town. Nobody was ever in the mansion anymore now that Hefner was in Los Angeles, but Debbie went swimming in the pool anyway, and Farrell and Schiller just said, "Oh, no," and lay out there in the sauna at three in the morning.~~

Back in Los Angeles ~~from Chicago~~, Schiller heard from Phil Christensen, Moody's law partner, who called to say that Nicole was going to be released from the hospital. Schiller had a flash of the press standing at the fucking front door of the hospital and here he had never met Nicole and didn't know what she thought of him. He couldn't be certain she was going to honor the contract in any way.

Naturally, Larry Flynt's new skin flick, Chic, called to offer \$50,000 for a series of nudes on Nicole. \$50,000! Schiller was very polite. They were using the word "nudes," but maybe they didn't know how to spell "spread-shots." He told Chic he would like them to come up with a list of photographers. That was a plot he could always use to keep them off for a while. Then, Larry called Kathryn Baker and said, "I think it's important Nicole be taken immediately out of

1691

Utah or the press will hound her. You and your kids need a vacation. Have you ever lived at the beach?" Kathrynne said, "Nicole really loved the beach when we were up in Oregon."

"All right," said Schiller. "I'll get a house in Malibu. You and Nicole and your family come as my guests. I won't impose or anything. Just come out and take a month off in a different environment."

Kathryne said that would really be wonderful. Larry scrambled around and made arrangements with Western Airlines under phony names for tickets for Nicole and her kids, and pre-paid the six trips. ~~He arranged~~ ~~and called Larry to go to Kathrynne's house at a given hour of the morning to pick up the baggage and bring it to the airport, then come back for Mrs. Baker and take her, then coordinate with Sundberg to have Nicole released at a precise time from the hospital, and~~ ~~right~~ ~~to the airport.~~ They figured it would be exactly a 35-minute drive, and they would put a 10-minute variance on it, and pick her up 45 minutes before her plane was due to leave. It was all arranged.

Nicole was getting ready to leave, however, and had, in fact, even gone up the hospital corridor one last time to pick up the clothes in which she came, when a girl asked her, "How do you feel about Gary?" Nicole said, "If he was alive, I'd do it over again." They turned her right around and put her back in the fucking hospital.

1245

1692

Schiller was on the phone the next four or five days. He spoke to ~~Dr. Woods~~ and all the ~~other~~ doctors. ~~He spoke to Kiger~~ He kept outlining the environment he would put Nicole in, and promised to have a doctor standing by if something happened, swore she'd be secluded from the press. He would underline that promise. He sent ~~Kiger~~ a telegram which set it all out, then a longer letter by courier, and suggested that the hospital take it to court in order for the court to recommend her release, thereby lifting the hospital off the hook.

The plan went into effect all over again. Only this time, Schiller decided he was going to fly to Utah. No way was he going to be caught on the wrong end again, waiting for things to happen. ~~REIDENTIFY~~ Lucinda was sent out to Malibu and found a place for \$1500 a month, and Schiller paid with certified check plus deposit, slapped it down, went to Utah and arranged to meet Nicole in Christensen's office. While there, a phone call came from Vern who said he had the cartons Gary wanted to give Nicole, and what should they do about them.

Well, Vern," said Schiller, "I got to tell you. My attitude is, don't hold anything back." "Do you want to look

at the boxes first?" asked Vern. "No," said Schiller. Vern said, "I got this tape Gary recorded for Nicole. I've listened to it." His pause encouraged Schiller to say, "How bad?"

"Well," said Vern, "it asks her to kill herself."

"Then," said Schiller, "I think we should not give her the tape." He thought for a moment and said, "Maybe I should try to engineer the interviews so I'm there when the boxes are opened." At that moment, he was ready to sit on the boxes as well, but Gary had told her too much about them.

While he was waiting for Nicole in the lawyer's office, he got a call from Phil Christensen who had another contract he wanted Nicole to sign. It would establish 20% of her income as his fee. Schiller hit the top. To himself, he thought, "More Mormon and Moroni." Aloud, he said, "This is nothing but blackmail." "No," said Christensen, "we've invested a lot of time," and the lawyer went on to describe the hours put into the effort and the future work he'd have to take care of. "No," said Schiller, "let her make her own decision." He had the feeling Christensen's heart wasn't altogether in it. Just a passing hunger.

Half an hour later, Nicole showed up. It was easy. The press had no idea she was being released that day. On going

~~1477~~

1694

to court, they'd gotten the judge to agree to let her out in 24 hours, while announcing that the release was four days away. So the press thought her coming-out party was 72 hours down the road.

There was Schiller on the second floor of Moody's law office, with Sunny and Peabody, when this girl with a super figure walked in wearing jeans and a shirt and very quiet. She kind of floated by him and picked up the kids and hugged and kissed them. They were really delighted to see her. "Mommy, Mommy," they carried on. Nicole started to cry, and Kathryne Baker started, but the kids didn't. They were holding toys in their hand that Schiller had bought them and were saying to Nicole, "Look what Uncle Larry got us." She turned then and Schiller was delighted. Much more attractive than he'd expected and he thought there was character and subtlety in her face considering she was a quietly wild-looking kid. That was splendid. It elevated Gilmore immediately in his mind. Gary and Nicole weren't some sordid, sleazy romance, but an interesting relationship.

Schiller now knelt to the floor, and said, beaming at her, he just loved her enough to hug her, "I'd like to introduce myself. I'm the big bad wolf, Larry Schiller." She had no affectation. Just said right off the cuff, "Gary told me about you,

1048

1695

but you're not what I expected you to look like." She spoke in a soft voice that was full of her own breath, as if she put a lot of breathing into each word, and thought about each word. The words came out slowly, but they had a strong, no-shit quality about them for a girl as young as her, and Schiller thought he knew what she meant. Gilmore had kept referring to him as a smart tough guy from Hollywood, so she had been expecting this dapper dude, but here he was bulky and dissheveled with his parka on. Of course, he had worn that for effect. No suit and tie for meeting Nicole. A perfect choice. Hell, she had no suitcase, no nothing.

He let her play with the kids for a while, then took her off to a side office, sat her down, and said, "Look, you don't know me from Adam. I can say to you that Gary, for whatever reasons, trusted me with a lot of things. I've made plans I'll explain to you, and if you think it's something you'd like to do, then we have to leave here in five minutes if we're going to catch a plane. If it's something you don't feel you'd like to do, then no hard feelings." And he gave her the reasons why he thought she should come to California, and said, "You know, a lot have people have warned me you could try it again," said it straight out. She nodded like she respected him for saying that. Then he added, "I've got this little house on the beach. You can take walks and

think about things. I'll be there." He hesitated but decided to bite the bullet, and asked her if she remembered signing any contracts, and was she aware she had a contract with him, and she said she was. "All right," he said, "what do you think? You want to do it?" "Yeah," Nicole said, "I think I'd like to go to California." Then he added, "Your lawyers also handed me a contract for you to sign before you leave."

"Do you think I should?" she asked.

They were getting along like hot dogs and mustard.

"Well," he said, "I won't tell you what's in it, but it's a pile of crap."

She smiled again. She had a great smile, he thought. It came out of some place in the center of her, and spread slowly across her face like whipped cream. She had full lips and it gave her a great, tough grin. It said, "Come on, you're no better than I am." He was surprised how fresh she was. A remarkably clean young lady. On this promising note, they left the office, went to the airport, got on the airplane, and went off to California.

On the plane, however, she began to slump. He could feel her pulling away from everybody. She no longer looked her own soul. More like a waif in a house whose windows were misted with fog. Schiller felt a worm of fear stir right in the pit of his gut.

2.

Lucinda was out at the airport to pick them up with a rented station wagon. When she saw Nicole coming down the runway, she felt overwhelmingly sorry for her. Nicole seemed so small and alone, as if plucked up from another world, and put in this one without the capacity to grasp it. Lucinda, having come from the kind of background where you could think of yourself legitimately as a debutante, given a very strict upbringing and coming-out party, was thinking of the things she had heard Gary say to Nicole into the tape recorder, acts described that Lucinda had never heard about from anybody, could hardly believe it was Nicole coming toward them with her mother and her children, carrying her little Newsweek magazine with Gary on the cover. That magazine was what made Lucinda feel sorry for her, as if Nicole had no way to grasp anything. Looked numb and out of it, just said a couple of words. She seemed in awe of Larry. Lucinda couldn't tell if Nicole hated him, or hated all of them. There seemed to be nothing coming off her but this refusal to have anything to do with anybody.

After the drive out to Malibu, Larry took Nicole and herself to the grocery store and Lucinda watched Larry spend something like \$400 on food for the Baker family. It was probably, Lucinda thought, more food than they'd ever had to-

1951

1698

gether in their lives, but Nicole didn't say anything. Just walked up and down the aisles, looking at the merchandise. Larry would say, "Well, think we need some of this?" but she just kept walking through this incredible supermarket in the Malibu Beach Colony.

~~It would have been bad enough, Lucinda thought, for Nicole to see all those dressed-up, moneyed people if she'd been brought right from Orem, Utah, but here she was, pulled out of a hospital and still presented with all these expensive items Larry was buying, as if to compensate for the awkwardness of the situation. Two full baskets before long. Nicole would just kind of smile, like food was the last thing she had on her mind. At one point Larry asked her if there was anything else she wanted, and she said, "Yeah, like I think I'd like some Instant Potatoes."~~

~~Later, driving Kathryne Baker around LA, out on the freeway with this skinny high-strung, highly made-up little woman, Nicole's mother, Lucinda listened to things about Gary, and how he'd come over to Kathryne's house with guns, how she was always terrified of him. It was almost as if so much attention had been given to Nicole, that Kathryne wanted to get in with her story too, and was telling it right in front of the children. It came out in a jumble. But Lucinda was fascinated.~~

1852
1699

~~When the kids would interrupt, Lucinda would want them to be quiet.~~

The first thing Schiller said to Nicole after they got back from the supermarket was that she was going to have the responsibility. There was a thousand dollars in cash available for expenses. He would leave whatever part of it she wanted now. The station wagon was also there for them to use. Now he would say goodbye for a while. It came over him, however, that the moment he left, Nicole might open those boxes Gary had left her, and read something and kill herself. She had the kind of calm to do it. That was when he got scared shitless. He said goodbye to her with a great big smile, told her he'd be around the next day, told her to take it easy and feel right, and he could feel how surprised she was that he was leaving her alone the first night away from the hospital, alone, that is, with her mother and kids, and then he said, "Hey, you're your own person. If I see you tomorrow, fine. If you don't want to see me tomorrow, nothing lost." That was what he said, but he had never been so scared as on that ride home. In fact, he couldn't hold out until he got back. Two thirds of the way to Beverly Hills, he stopped and called, pretending he had just gotten in. "Want to let you know I got back safely," he said in a voice that couldn't sell ice cream, but, of course,

190-3
1700

had to hear her voice to know she hadn't packed it in.

Later that night, she called him and whispered over the phone in a voice he could swear sounded like Marilyn Monroe, "Larry, I'm having this tremendous thing, taking a bath alone." Next day, he took her out to lunch, and to Universal Studio with her kids, and before she'd been there a week, he was having to explain to Stephie that it was professional with Nicole, not personal, professional, not personal.

Nicole did open the box that night. Gary had left her a Meerscham pipe which Nicole didn't know was of value. She thought it looked great for blowing soap bubbles. Then there was the watch Gary had broken at the estimated time of execution. She thought it was neat of him to do it. After all, what would it mean if she'd just been handed a watch? Then there was a bible in the box. Gary wrote that he had been sent enough bibles to open a holy store, maybe 8, 10,000, but this one arrived on the day he attempted to take his life the second time.

There were some newspaper stories on Gary and Nicole, and some of her letters, and a picture of Amber Jim. Plus a bunch of letters from Amber to Gary. Nicole actually got jealous reading them, even though Amber Jim was just a little

1984

1701

girl. She also felt like crying. It was the first thing that brought Nicole close to the reality of all those people besides herself who were thinking of Gary as the time of his execution came near.

Then, she saw a picture of Richard Gibbs. Underneath it, Gary had written, "Undercover agent and a rat. Stool pigeon. He really fooled me." A lot of pictures of Nicole and her family at various ages were also there, and letters sent to Gary from a lot of people. A St. Michael's medal. A navy blue sweatshirt with the sleeves cut off. Of all that stuff, the sweatshirt got to her. It didn't stink, but it did smell like him. Smelled nice. It was just a great sweatshirt, and she didn't want to wash it. She wore it that night and then she wore it a few times after, and she never wanted to wash it, but after a while, it got dirty and she had to.

3.

Schiller didn't start the first interview for a week. Then it was a problem where to do them. The house at Malibu had three bedrooms upstairs, a kitchen, dining room and living room on the main floor, and on the third and lower level, by the beach, was a playroom. Her mother slept in one bedroom, and her mother's kids in another, and Nicole was planning to share a big, king-sized bed with her two kids, but she pre-

ferred to leave them there and shack out on her cold, windy porch in the late January and early February winter sunshine of Malibu. It was cold and windy, but she chose it. Virtually moved out there. All her books were on the porch.

They ended up doing interviews in all kinds of places. Schiller discovered that now she was out of the hospital, she hated to be confined in a room. He would start his tape recorder in restaurants, or take her out for drives and talk in the car, and after some days of that, he came to discover that she was going to give him more than he'd ever hoped for, more in fact than Gary ever did.

She seemed to have a commitment to the interviews as deep as the beating of her heart. It was as if she had to tell him all the story as once she had told it to Gary, and tell it all, tell it not to satisfy her guilt, and sometimes he thought she felt very guilty, no, for some deeper reason and Schiller was profoundly confused why she was so concerned to tell it all, to give it all forth, to explain what had happened in the very best way she could ever understand it, and be as fair to a true description of everything that was not good between Gary and herself as well as to everything that was good, until Schiller began to wonder if it was because she had gone through hell and come back with one simple message, "There is nothing

worse in all the world than the taste of bullshit in your mouth."

When it came to interviewing, Schiller knew he had met his match. Maybe there wasn't a disclosure he had gotten in his twenty years of media that hadn't been built on some part of bullshit mountain, but with Nicole he got along. He didn't have to use many tricks and that moved him so profoundly that he took a vow when and if his turn came to be interviewed on Gilmore, he would also tell the truth without protecting himself and try to equal a little of what Nicole had done.

Now Schiller was certainly back with Stephanie. He was going to marry his princess, he was going to get his Jewish princess. He saw it as belonging to the best vein of his luck. But he couldn't believe the other half of his luck. It was that he was friends with a girl for the first time in his life. ~~Something like happiness began to come into~~ Schiller when he realized the monumental gamble he had taken with Nicole--for if she committed suicide, his name was bonded offal--was probably going to win out. One of the reasons ~~after all that~~ he could trust her not to take her life for too little over the weeks and months and years to come, was because of her friendship for him. She wouldn't do it to him for too little. So

he went on with the interviews and at times was ready to cry in his sleep that he was a writer without hands. It took him a long time to realize that maybe the same was true of Nicole, and with an exception here and there, maybe everybody had their own sad sweet story to relate.

April joined the Baker family but on Mother's after a hard time in the hospital. The patients and staff, she was assured, had really laid it on her, and talked her head on the wall when she suspected that they were driving her crazy. Books and newspapers kept coming in. It was horrible. She kept reading all about Gary.

Now, at Mother's, she was still plucky. Out of her when she would cry, "Now, are you all right? Are you sure you're all right?" The night would go on.

In the daytime, April and Nicole would fight. They had never gotten along. Things might get better, things might get worse. But certain things Kathryn could count on. One of them was that April and Nicole would never get along.

2

1705

XLII SEASONS

1.

April joined the Baker family out on Malibu after a hard time in the hospital. The patients and staff, she announced, had really laid it on her, and banged her head on the wall when she shouted that they were driving her crazy. Books and newspapers kept coming in. It was horrible. She kept reading all about Gary.

Now, at Malibu, she was still panicky. Out of her sleep she would cry, "Mama, are you all right? Are you sure you're all right?" The night would go on.

In the daytime, April and Nicole would fight. They had never gotten along. Things might get better, things might get worse, but certain things Kathryne could count on. One of them was that April and Nicole would never get along.

#807

1706

2.

Later that winter, Noall Wootton was having martinis with a couple of men in the Sheriff's Office of Salt Lake County, when one said, "These fellows still want me to prosecute Nicole for smuggling pills in to Gilmore," and Noall Wootton said, "Bill, for hell's sake, what's that going to accomplish? Forget it."

"Well," said Bill, "I already have. I told them I declined it, and I am not interested." Under it all, Wootton would have loved to question Nicole and find out how she did get the pills in.

Sam Smith called Vern one day and wanted to know how the liquor got into the prison.

"You must be dreaming," Vern told him. "I don't know how it got in."

Smith called again to try to get him to open up, but for some reason it remained a mystery to Vern.

3.

After the month in Malibu, Nicole decided she liked living in Los Angeles with her kids, and so she took a house

out in the San Fernando Valley that didn't cost too much. Just a shabby little ranch bungalow. It was five blocks from the very end of town. She could almost have been in Spanish Fork for the desert began down the street, and the mountain rose not a mile away. It was a familiar house. Nicole tried to work for a while, and keep the kids in day school, and go to school herself and learn a little, but it was a dull stretch. There was no sex. There was nothing in her life.

She bought a camper with some of the money Gary had given her, and she got a ²⁰¹³ ~~driving~~ license, and then in Spring she went out to Utah and came back. She had not had sex since that night in October in the middle of Gary's trial, but late in April, returning from Utah, she picked up a hitchhiker. It had been a long, difficult stretch with all kinds of guys trying to make out, and Nicole wondering if she could go for the rest of her life without it, but being faithful left her feeling bad and choked up and dull and bored and itchy and intense.

After she made love to the hitchhiker, she no longer felt Gary's presence near. She didn't feel it after that for a long time. Felt as if he had gone away from her. That left her depressed and close to dead. Still, she kept on having sex. It didn't solve anything, but not having sex also solved nothing.

Either way she knew she was not going to fall in love.

Still, having that one night of sex left her feeling ugly for weeks. She tried to figure it out. She was the one who was living, and maybe it was more important how she felt about what she did, than Gary. If she had tension and could get rid of a little of it by making love to somebody, and then once they were gone even the memory of them was also gone, and had nothing to do with her, or her bod, or her heart, or her memories, then where was the waste and the treachery to Gary?

Still, such sex left her feeling more and more out of touch with him. So she drifted in her heart. It was hard to get started on any program to improve herself. Larry had told her that she was smart enough to walk right out of the swamp by herself, but the truth was that she always felt lazy and was tempted to say, "Oh, fuck it, I'm in a swamp. I'll stay there."

The thought Nicole wanted to lose the most was that there wasn't any more Gary. It was a possibility she would like to live without. She did not want to believe he might not be on the other side.

A year after the execution, Kathryn Baker was writing to Schiller:

You know, Larry, I used to feel sorry for Gary, but what he's done to my girls, what he's still doing to them, Well I could kill him a hundred times over--I live with Gary every day, the fear of him in April, is driving us all crazy! when night comes for her, its a nightmare for all of us. She is scared to death of the dark because "he's out there with a gun killing people." She doesn't say Gary. . . only "He"--and she's truly haunted--at 4 AM last week, hysterical, "He's out there killing people, now he's gone to kill more people--hurry, we got to get up there before He kills more!" this is how it is all the time--even in Her sleep--when She sleeps. It makes no difference if we are all here, She must be reassured all night that He can't get in & kill us, no one sleeps the whole night because April wakes us every hour with "Are you alright mama--what are we going to do??" I tell you Larry I hate Gilmore so bad I wish he was here so I could kill him! April. . .from the things she say's in her sleep & her panic at the sight of blood, I guess Gary's shoes and pant-legs must have been covered with blood & brains, I guess so if the wall's were splattered, I don't

1990

1710

know what to do anymore, I can't talk to Sissy about her feelings towards Gary, she hides them, but will relate to music and cry long for Gary, it's in poems--I can't talk to April about Gary, because she don't & won't mention his name hardly ever--night before last in her sleep she said, "there he is with blood on him & that crazy look in his eyes." now who, other than Gary would be tormenting her dreams! I know that crazy look in his eyes--it was there when he came after his gun, when he took April with him--sounds like I need a shrink too huh?? ha ha Well I don't, I'm O.K. just need help in fighting the ghost of Gilmore.

Nicole was sitting in her kitchen one morning in the little apartment she rented in a small town in Oregon which is where she had wandered after LA, and she was having coffee with the guy who had just been there the night before. She was reaching out for something on the table when all of a sudden her hand looked strange. She saw the ring of Osiris that Gary had given her was broken. The setting had cracked.

She had built up a lot of control over all these months and this year, but suddenly it just hurt so bad that she bawled right there at the table, two seconds after she saw the broken ring. It was the first real big cry she'd had

about Gary in a long time, a month or so.

She was not sure anymore there was any such thing as Gary. She didn't know if that was where her belief rested anymore. He was a lot out of her mind. He might really be dead.

5.

In Christmastime of 1977, Vern went out and bought bar-bells and delivered them to Utah State Prison for the convicts. Gary had asked him to do that after his execution.

It had not been a good year and it did not get better. Vern's leg was so bad he needed another operation, and he had no money. Because he could not stand for a full day, he had had to sell his store, and then, the lawsuits on Gary's estate began. The State of Utah sued him, and the insurance companies who had insured the Bushnell and Jensen families, and finally there was a \$1,000,000 suit from Colleen Jensen. He discovered that he was liable but Moody and Stanger who had drawn up a new contract with him were not. Then Ida got a serious stroke and Vern fed her three meals a day in the hospital for three weeks and tried to teach her to walk and talk again. Since her hospital bill would come to \$20,000, he for-

~~1826~~

1712

got about his own operation.

b.

One of Bessie's legs had started to turn. From the day Brenda told her that Gary committed the murders, one of her legs turned in at the ankle. Then from the day Gary was killed, that leg would no longer allow her to walk. Up till then, she had been able to make it over to the office trailer for her mail. Now, although the office was only three trailers away, she did not try. The leg didn't want to walk.

Sitting in her chair, she would remember the haunted hosue in Salt Lake where the nice Jewish lady had been her neighbor. Bessie would think that whatever it was that lived in the house, whatever it was that the nice Jewish lady had warned her against, must in those years have begun to live in Gary.

Now she heard that Ida had a stroke. Vern turned around one night in the house and there was Ida with the stroke. Bessie could have told Vern. Whatever had attached itself to Gary long ago in that house in Salt Lake, must shortly after have attached itself to Ida. That was how Bessie saw Ida's stroke. She would not, however, tell Vern. When all

was said, she did not know Vern well enough to say that the apparition was now sitting in his house.

She did, however, think of her mother-in-law Fay and the old house in Sacramento where the furniture moved. Bessie sat in her chair among the coffee cups and the saucers on the table of this trailer, sat in the faded nightgown that looked one hundred and two years old, and said to herself, "I have reached the point of no return from Hell."

Outside the trailer park, automobiles went by on McLaughlin Boulevard. Once in a while, a car would drive under the battered white wooden archway at the entrance, come up to her dark windows and stop. She could feel them looking. She had received letters that threatened her life and she ignored them. Letters could not hurt a woman whose son had taken four bullets through the heart.

She also received letters from people who wrote songs about Gary and wanted her permission to publish the songs. She ignored such letters also.

She would just sit there. If a car came by at night, came into the trailer park, drove around and slowed up, if

~~1008~~
1714

it stopped, and she knew somebody out in that car was thinking that she was alone by the window, she would say to herself, "If they want to shoot me, I have the same kind of guts Gary has. Let them come."

Deep in my dungeon

I welcome you here

Deep in my dungeon

I worship your fear

Deep in my dungeon, I dwell.

I do not know if I wish you well.

Deep in my dungeon

I welcome you here

Deep in my dungeon

I worship your fear

Deep in my dungeon, I dwell.

A bloody kiss from the wishing well.

--old prison song

The end

Jan. 7--Dec. 3, 1978

The Executioner's Song, ~~1969~~ typescript, undated, 1969 pages

NO. 3
1 of 3

This typescript is an intermediate stage manuscript of Norman Mailer's Pulitzer-Prize winning account of the life and death of Gary Gilmore, and of his friend and lover, Nicole Baker. A quick comparison with the published volume shows a close correspondence between the two versions. Numerous pages of the typescript have extensive hand-written changes, made either by Mailer, or under his direction, Judith McNally. These changes reveal the careful paring and shaping of the narrative.

The book was written in active collaboration with Lawrence Schiller, who purchased the rights to Gilmore's story and was his literary executor. Schiller did the bulk of the interviewing on which the book is based (Mailer also did some, and in a few cases accompanied Schiller on interviews, for example with Gilmore's mother). This volume of 1056 published pages was written in extraordinary haste, but also with great care. It relies on extensive interviewing and research, which was accomplished by the large team of typists, interviewers who worked under the direction of Mailer and Schiller. It written in the period of Mailer's involvement, which ran from Gilmore's execution in January 1977 and the book's publication, by Random House, in October 1979. Schiller was involved earlier doing interviews, and obtaining rights, a difficult and complex process which is detailed in a fascinating manner in Part 2 of the book. Mailer pays tribute to Schiller in "An Afterword" to the book, outlining his crucial research and interviewing, and saying that the book would not have been written without his collaboration (Schiller owns the copyright to the book, but split all profits 50-50). Among the many others who assisted him, Mailer singles out McNally, who read, commented on, and line-edited the manuscript. He concludes by stating that "this work could not have been written in fifteen months without her."